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Letter dated 25 October 2004 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my predecessor's letter of 9 June 2004 (S/2004/479). The Counter-Terrorism Committee has received the attached fourth report from Bosnia and Herzegovina submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex). I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Andrey I. Denisov
Chairman
Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

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Annex

Letter dated 22 October 2004 from the Permanent Representative of Bosnia and Herzegovina to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

I would like to present my compliments to the Chairman and, with reference to the letter dated 7 May 2004, have the honour to enclose the answers provided by Bosnia and Herzegovina authorities to the Counter-Terrorism Committee enquiry (see enclosure).

I would like to express my gratitude for the continuing cooperation between Bosnia and Herzegovina and the Counter-Terrorism Committee.

(*Signed*) Mirza **Kusljugić**
Ambassador
Permanent Representative of Bosnia and Herzegovina
to the United Nations

Enclosure*

ANSWERS TO ENQUIRY - Counter-Terrorism Committee**

1.1.

The Bosnia and Herzegovina (B-H) Criminal Code Chapter XIV prescribes accountability of a legal entity, except for Bosnia and Herzegovina (BH), Federation of Bosnia and Herzegovina (FBH), Republika Srpska (SR), Brčko District (BD), canton, city, municipality and local community, for a criminal offence committed by a perpetrator on behalf or for account of such legal entity. Further in this Chapter, Articles 123-124 set forth penalties and other criminal sanctions declared against legal entity, in addition to legal consequences of conviction of a legal entity for criminal offence. The Article 124 prescribes grounds for accountability of legal persons.

1.2.

The B-H Criminal Code does not specifically criminalize recruiting of terrorist groups. However, Chapter XXII Articles 250-274 provide for sanctions for conspiring, preparing, association and organising crime.

1.3.

The B-H Criminal Procedure Code Chapter XXXI provides for procedure for extradition of suspect and convicted persons. Article 415 specifies conditions for extradition, i.e. for cases when extradition is not possible.

1.4.

In connection to the present paragraph 1.4., please note that B-H has not adopted the Law on Legal Practice and Law on Notaries. This area is regulated by Entity Laws. Amendments to the mentioned Law were not proposed, and therefore were not adopted, which would have obliged lawyers or notaries to identify and report suspicious transactions. When it comes to the international conventions, all Council of Europe post-accession obligations of Bosnia and Herzegovina were met in respect to this issue (Convention on Prevention of Terrorism took effect on January 4, 2004, and European Convention on Money Laundering, Raid, Confiscation and Seizure of Assets from Criminal Offences of ETS 141 were signed).

The importance of both regional and international cooperation with a view at effective countering terrorism and organised crime, makes it necessary to conclude agreement on cooperation and exchange of information with Europol. B-H Ministry of Justice appointed a contact person for cooperation with EUROJUST.

Penalties for criminal offence of terrorism are stipulated under the mentioned B-H Criminal Code Articles.

1.5.

The criteria for determining suspicious financial transactions are defined by Decision on Minimum Standards of Bank AML and CFT Activities (see attachment with indicators of suspicious financial transactions), which are not dealt with here due to lavishness, but are possible to find at the RS Banking Agency web-site at (www.abrs.ba).

Penalties for non-compliance with the RS AML Law Article 22 are stipulated as follows:

"Responsible persons within legal entity who have committed the offence under paragraph 1 of this Article shall be fined the amount ranging from KM 500,00 to 1.500,00. If the offence under paragraph 1 of this Article has been committed in regard to a transaction the value of which amounts to KM 300.000,00 or more, persons under obligation shall be fined proportionally at the most ten time the value of the outcome of non-compliance or damage or value of goods concerned, and responsible persons within the legal entity that committed the offence shall be fined the amount ranging from KM 500,00 to 1.500,00."

* Annexes are on file with the Secretariat and are available for consultation.

** Some items are repeated because they reflect different answers by different state agencies to the same questions.

1.5.

The reporting suspicious transactions is regulated by provisions of FBH AML Law Article 6, paragraph 4, in addition to Articles 8, 10 and 12.

- Criteria, i.e. suspicious transactions criteria, are provided to the persons under obligation by the FBH Ministry of Finance, which proposed the Law in 2000, and since then, the FBH Financial Police and AML Office have been continuously up-dating the persons under obligation on new forms of money laundering and new classification criteria for suspicious transactions.
- Under the FBH AML Law Article 22, the person under obligation failing to collect data and report to the FBH Financial Police transactions referred to in the AML Law Article 6 in way and within deadlines as stipulated under the Law and Rule Book on Reporting Ways and Deadlines to the FBH Financial Police and on Way of Collected Data Inventory («Official Gazette of BH», 23/00), faces the penalty for commercial offence in from of fine ranging from KM 10,000 to KM 70,000 for legal person, and KM 1,000 – 5,000 for the authorised person.
- If mentioned commercial offence committed in respect to transaction worth KM 300,000,000 or more, the person under obligation will be punished proportionately with the non-complied to obligation or damage caused by a fine up to twenty-fold amount of the non-complied to obligation or damage caused or value of goods or other items, while the authorised person will be punished with a fine ranging from KM 1,000 to KM 5,000.

1.6.

Out of total reported over 43,000 transactions (since the Law application outset, in March 2000, to date) with the value of transactions of over KM 3,5 bld, the Department detected over KM 790 mil. worth suspicious financial transactions carried out by 284 legal persons. Over KM 4 bild. was blocked. All transactions were reported by banks, as the overall payment operation system functions through them. All suspicious transactions were analytically processed by the Department and subsequently passed on to the competent institutions pending on nature of transactions (RS Ministry of Interior, RS Tax Administration, RS Prosecutor's Office). The complete data on number of the convicted is disposed by the RS Prosecutor's Office, as the initiator, and by competent courts depending on the extend of specific case. In addition, the Department submitted 9 criminal reports against persons under obligation or their authorised persons, due to non-compliance to the Law provisions.

1.6.

Since the AML FBHLAW taking effect (March 15, 2000), the FBH Financial Police received suspicious transactions reports in the following order:

- 2000: no reports; 2001: no reports; 2002: 45 reports for total amount of KM 2,237,163,00; 2003: 498 reports for total amount of KM 18,314,995,00 (significant portion for off-shore zones transactions), while in period January 1st – June 30th 2004, 57 transactions were reported for the amount of KM 5,129,194,00. All suspicious transactions were reported by commercial banks.
- The FBH Financial Police AML Office provided information to the competent bodies and Prosecutor's Offices and Ministries of Interior on carried out financial transactions for further procession as follows: 2000: 32 reports for total amount of KM 2,871,533,00; 2001: 62 reports for total amount of KM 19, 626,980,00; 2002: 661 for total amount of KM 264,691,894,00; and 2003: 285 reports for total amount of KM 532,859,677, while for 2004 it was about 33 reports for total amount of KM 53,500,079,00.

A very small portion of the suspicious transaction reports was received by competent bodies from persons under obligation themselves. The major part of transaction detected were arrived at by a direct Law implementation supervision of the person under obligation and based on citizens' reports and information received from other law enforcement agencies.

The reports from the AML Office were provided to Prosecutor's offices and Ministries of Interior in 2002 and 2003, and largely they referred to transactions by fictitious or unavailable companies, on which investigations

were initialled (the AML Office identified 1,324 fictitious firms carrying out transactions via 23 commercial banks in BH worth KM 1,700,000,000.00).

1.7

The RS AML Department employs two inspectors, two computers and has no additional resources or equipment, which speaks enough for itself.

Please note, in order to specify the question for which the answer is provided, that the question under 1.13 certainly does not refer to AML Office competences, in respect to taking away the illegally acquired assets (Criminal Code, judicial institutions issue), and strategy development at State level.

1.7.

Under the FBH AML Law Article 6, the persons under obligation (banks) ascertain client identity on opening of all kinds of bank accounts and other forms of establishment of business cooperation with the client. The identification of natural persons is determined by insight into personal documents. If the person under obligation carries out transactions for a legal person, then it is obliged to determine identity of natural person carrying out transaction on behalf of the legal person, including title, seat, and ID number of the legal person concerned.

The person under obligation has to demand from the client a declaration if a transaction is required for its own account or on as an agent. If the client requires transaction in capacity of an agent, the person under obligation has to be presented a valid authorisation.

The B-H Criminal Procedure Code prescribes procedure for offering international legal assistance. Namely, in case of extending legal assistance from the court capacity, application from a foreign party is passed on to Prosecutor's Office via the competent B-H level Ministry. Also, the B-H AML Law, which is expected to take effect on December 28, 2004, regulate conditions under which the B-H FOO (Financial Intelligence Division)?? can exchange data, information and documentation needed for the AML and CFT purposes.

1.7.

Identification of natural and legal entities on establishment of business relations with a bank is provided for by the Law on Banks Article 47. Aiming the implementation of mentioned activities, under the Decision on Minimum Standards of Bank AML and CFT Activities («Official Gazette of FBH», 3/03), the Banking Agency defined the term «know your customer», which banks are obliged to apply in business making with their clients. In applying mentioned principle, banks are obliged to define policies on: client eligibility, identification, account and transaction monitoring and ML and FT risk management. The Decision Article 16 provides for obligation of a bank to carry out regular account and transactions monitoring of its clients, aimed at FT prevention, which presumed reporting to competent institutions and blocking of financial resources for which the bank suspects or knows of being used for FT or by persons supporting FT.

With this Decision, the Agency fully incorporated all Bale Bank Supervision Committee and FATF Recommendations.

In order to give a thorough view of the mentioned regulations, please find quoted provisions of the Law on Banks Article 47 and relevant parts of the Decision on Minimum ML and FT Prevention Bank Activities:

Law on Banks:

Article 47

"No bank shall acquire, convert or transfer, or be instrumental in the acquisition, conversion or transfer of, money or other property if the bank knows or can reasonably expect that the money or other property are the proceeds of criminal activity or used for the financing of any criminal activities.

No bank shall engage in a transaction that the bank knows or can reasonably expect will constitute a money laundering offense as defined in Article 2 of the Law on the Prevention of Money Laundering in the Federation of BiH (Official Gazette of the FBiH, # 8/00).

No bank shall convert or transfer, or be instrumental in the acquisition, conversion or transfer of money or other property that the bank knows or can reasonably expect to be used in terrorist activity or for the support of people engaged in or supporting terrorism *"nor convert or transfer, nor be instrumental in the acquisition, conversion or transfer of money or other property as aforesaid that the bank knows or might reasonably be expected to know might be used by those individuals who, or legal persons or bodies which, obstruct or threaten to obstruct or pose a significant risk of actively obstructing the implementation of the peace process; or who or which materially assist in, sponsor, or provide financial or technological support for, or goods and services in support of, such obstructionism; or which are owned or controlled by, or act or purport to act directly or indirectly for or on behalf of, any of the foregoing".*

Each bank shall establish internal control and communication procedures in order to detect and prevent transactions involving criminal activities, money laundering, or those supporting terrorism *"as well as those supporting the obstruction of the peace process or materially assisting in the same"* described in paragraphs 1, 2 and three in this Article.

Each bank shall take reasonable measures to satisfy itself as to the true identity of any person seeking to enter into a business relationship with it, or carry out a transaction or a series of transactions with it, by requiring the applicant to produce an official document establishing the true identity of the person (ID card, birth certificate, driver's license, passport or other official means of identity) and, in case of a legal entity certificate of incorporation. Each bank shall take reasonable measures to establish whether the person is acting on behalf of another. If it appears that the person is acting on behalf of another person, the bank shall take reasonable measures to establish the true identity of such person.

Each bank shall also take reasonable measures to satisfy itself as to the true identity of any person seeking to carry out a transaction where the amount is 30,000 KM or greater, notwithstanding the number of transactions necessary to execute the transaction. The Supervisory Board, Management, and all employees shall have a duty to automatically report promptly to the Financial Police or its successor *"and the Federation Banking Agency"* all transactions that are 30,000 KM or greater as well as any other transactions or any other activity of the bank which he knows or can reasonably expect will violate the provisions of paragraphs 1, 2, or 3 of this Article and to provide such information as the Financial Police or its successor or the Agency shall request. Providing information pursuant to this Article shall not be regarded as a disclosure of professional secrets.

The Director of the bank will block deposit accounts *"or any other form of account"* and such other property and assets of natural persons and legal entities upon presentation of a written or faxed order issued by the Financial Police or its successor or the Agency to do so. *"Failure to comply with such a blocking order by the Director of the Bank, or by any individual on behalf of the Bank or by any employee thereof, shall be treated for all purposes, under paragraph 1, item 23 of Article 65 of the said Law, as participation in a transaction contrary to the provisions of the said Article 47, and Article 65, and in addition article 66 thereof, shall fully apply thereto. Such failure is in turn to be treated for all purposes of Article 67 thereof as a violation under the said Article 65".*

Banks shall be required to forward to the Federation Banking Agency all information related to action taken pursuant to a blocking order, as well as all information related to attempted transactions to and from blocked accounts, immediately upon receipt of such information."

Decision on Minimum Standards of Bank ML and FT Prevention Activities:

Article 2

"Banks are required to have a written Program of implementation of activities stated in Article 1 of this Decision, that is the Program for prevention of risk of money laundering and terrorism financing, as well as for

implementation of adequate control procedures (the Program) that will ensure that the Program, policies and procedures are fully implemented in practice.

Banks, including its head office and all of its branches and other organizational units located in the country and in abroad, are required to fully implement provisions stated in the Program, as well as all policies and procedures. Banks are required to pay special attention to activities of their branches and other organizational units located abroad.

As for regulations stated in the previous paragraph and their implementation, banks are required to ensure that high ethical and professional standards exist with their employees and to provide for efficient prevention of any possibilities for the bank to be, consciously or unconsciously, misused by any criminal elements, which includes prevention, detection and reporting of authorities on criminal actions and frauds, that is reporting the suspicious information and activities.

Article 3

It is required that the Program mentioned in the previous article includes the following policies:

1. policy on customer suitability;
2. policy on customer identification;
3. policy on permanent monitoring of accounts and transactions; and
4. policy on managing the risk of money laundering and terrorism financing.

Article 4

Banks are required not only to determine the identity of its customers, but also to constantly monitor its account activities and to verify and determine whether transactions are performed in a normal and expected manner taking into account the nature of the account.

"Know Your Customer" should be a central element of the procedures for managing the risk and for performing adequate controls, but it is necessary to amend the same with regular internal reviews and internal audit of compliance of bank's operations with requirements stated in the Law on Prevention of Money Laundering, Law on Banks and in other regulations (laws and other regulations).

Within the Program and Policies on Managing Risk of Money Laundering and Terrorism Financing, banks are, among other things, required to develop and consistently implement clear and precise procedures for reporting to certain internal bank bodies and authorized institutions on all legally required and suspicious transactions of its customers, based on the law and relevant regulations.

II Customer Acceptance Policy

Article 5

Based on the customer acceptance policy, bank is required to establish a clear policy on the issues like which and what kind of customers are suitable for the bank, as well as to prescribe overall procedures for implementation of this policy. This policy needs to especially encompass a description of types of customers bearing a higher then average risk to the bank and bearing the highest risk level. Aside from that, the policy needs to include such elements as: background information and reputation of customers, customers' home country, public or some other high position of an individual, related accounts, type and nature of business activities and other possible indicators of risk.

Policies, as well as procedures for their implementation, need to be adjusted to a requirement that customers need to be reviewed and rated based on the level of risk the customer represents in a way to have the customers with the highest risk level be subject to the most severe and most detailed review and documentation request.

III Customer Identification Policy

Article 6

Policy on customer identification should be a major element of the "Know Your Customer" standard. In the sense of this Decision, bank customers are:

1. **individuals and legal entities opening or have opened accounts with banks;**
2. **individuals and legal entities in whose name and in whose behalf bank accounts are being opened or are opened, that is end user/holder of account;**
3. **individuals and legal entities intending or performing financial transactions through the bank;**
4. **individuals and legal entities performing transactions through different kinds of intermediaries; and**
5. **any individual and legal entity who is related to the financial transaction that can expose the bank to the reputation risk or to some other type of risk.**

1. Customer Identification

Article 7

Banks are required to determine a detailed and overall procedures for identification of new customers and are prohibited from establishing new business relations with the customer unless the identity of new customers is determined in a fully acceptable fashion.

Banks are required to document and implement policies for identification of customers and for identification of individuals acting in their behalf and for their benefit. Generally, documents bank uses to determine their identity need to be of such nature that it takes certain amount of difficulty to collect them legally or to forge them, as well as documents prescribed by other appropriate regulation. Banks should pay special attention to nonresident customers and they can not narrow down or have an incomplete implementation of procedures for determination of customer identity for the cases where the new customer is unable to fully present himself/herself during an interview.

In the case of non-resident customer, bank should always ask a question to itself and to the customer: why has such customer chosen to open an account with this particular bank in this particular country.

Identification process is performed at the beginning of a business relationship. However, in order to ensure that documents are valid and relevant, banks are required to perform regular reviews of existing documents. Also, banks are required to perform such reviews in all cases where there are some significant transactions performed, where there are some significant changes made in a way the customer uses the account for performing different transactions and where the bank constantly changes standards for documenting the identity or transactions of customers. In cases when banks become aware they don't have sufficient information on certain existing customer, they are required to undertake certain urgent measures for collecting such information in the fastest way possible and they can not perform requested transactions until they receive the mentioned information.
Once banks establish the business relationship with the new customer, as well as in cases mentioned in the previous paragraph, they are required to verify and collect information on customers from specialized service bureaus (credit bureaus) if there are such bureaus and if such services are available to banks, but to use all other possible sources such as reference materials to be acquired by third parties, through certain service checks, telephone books, other possible address books, web pages, etc.

Article 8

As for customer identification and for every individual transaction, banks are required to prescribe standards for types of necessary documentation and time periods for maintaining such information, at a minimum in accordance with appropriate regulations for maintaining documentation.

2. General Requirements for Customer Identification

Article 9

Banks are required to ask for all necessary documentation in order to have a full and accurate identification of every customer, as well as to determine the purpose and intended nature of business relationship with the bank.

For individuals wanting to become bank customers, banks are required to determine their identity and ask for the following information and documents:

1. **name and surname;**
2. **permanent residence address;**
3. **date and place of birth;**
4. **unified citizen's number or passport number and country issuing passport for nonresident customers;**
5. **name of the company the individual is employed with;**
6. **description of sources of funds;**
7. **sample signature;**
8. **I.D. card, driver's license, passport or some other official document proving the identity (with a photograph);**
9. **Information and documents (the same as for the customer) of authorized representatives; and**
10. **Other – in accordance with appropriate regulations.**

Banks are required to verify all information and data by reviewing original documents issued by authorities, including I.D. cards and passports. In direct contacts, check the customers photograph in the documents. Every subsequent change of the above stated information or documents must be verified and documented.

For all original documents that can not be left with the bank, bank is required to ask for them to be photocopies and certified by an appropriate authority.

For legal entities wanting to become bank customers, banks are required to ask for the following information and documents:

1. **proof of their legal status – statement from the registry book, that is registration with the registry institution;**
2. **I.D. number assigned by the Tax Authorities;**
3. **contract – document of establishment;**
4. **operating license if necessary for the particular type of business;**
5. **financial statements of operations;**
6. **document describing basic business activities of customer;**
7. **sample of authorized signatories;**
8. **information and I.D. documents containing photographs of authorized representatives and sample of their signatures;**
9. **other – in accordance with appropriate regulations.**

In all of these cases, banks are required to verify documentation and to verify whether the company actually exists or nor, whether it can be found on the stated address, whether it actually performs the stated business activities. As for original documentation or court certified copies, banks are required to maintain the same for their own needs and in accordance with the legal regulations.

Bank can not open an account nor operate with such a customer who insists on staying anonymous or who gives a false name.

Banks can refuse to open accounts to customers without requirement of an explanation.

3. Special Identification Questions

Article 10
In all cases of customer identity determination, banks are required to act in accordance with all policies and procedures, as well as with all applicable regulations. Aside from other elements, banks are required to pay special attention to the following cases:

3.1. Trustee and nominee accounts

Since trustee and nominee accounts can be used to hide or avoid bank procedures for customer identification, banks have to establish a kind of procedures that will efficiently determine the true identity of the actual beneficiary or owner of the account. In doing that, they are required to ask and receive satisfactory proof of identity of every intermediary, trustee and nominee, but also of individuals that they represent, that is the actual account beneficiary or owner.

3.2. Special purpose intermediaries

Banks are required to be especially careful to prevent business companies (with certain specialized business purposes), especially international business companies, using individuals as tools to work through anonymous accounts. Since efficient identification of such customers or end users is extremely difficult, banks are required to pay special attention to understanding and discover the structure of such company's organization, to determine what are the real sources of funds and to identify end users or owners or individuals actually controlling the funds.

3.3. Companies specialised in customer due diligence review

When banks engage specialised companies for due diligence reviews of its customers, they have to pay special attention to determine whether this is a sound company and whether these due diligence reviews are performed in accordance with the standards listed below. However, regardless whether a specialised due diligence companies is engaged or not, the final responsibility is with the bank itself. It is for the mentioned reasons that banks are required to use the following criteria to determine whether the specialised companies are acceptable or not:

1. **specialised company must comply with the minimum practices for customer due diligence reviews as stated in this Decision;**
2. **customer due diligence procedures implemented by specialized companies must be at least as strict as procedures performed by banks themselves;**
3. **bank must be satisfied regarding reliability of the system used by the specialized companies in customer due diligence;**
4. **an agreement must be reached between the bank and the specialized company enabling the bank to check the performance of the due diligence review performed by the company during any stage of this review;**
5. **all relevant identification information and documents related to customer identity have to be immediately forwarded to the bank by the specialized company. Bank is required to perform an immediate and careful review of the same. Such information has to be available to the bank supervisors review based on the law.**

3.4. Customer accounts opened by professional intermediaries

When a bank discovers or has a reason to believe that the account opened by the professional intermediary in favour of an individual customer, the bank is required to determine the identity of such customer. In cases when professional intermediaries open a consolidated account including several customers and in the case when sub-accounts are opened within the mentioned consolidated account, banks are required to determine the identity of all customers individually.

In the following cases banks are required to deny the account-opening request:

1. when an intermediary is not authorised to provide the bank with necessary information on real source of funds, for example attorneys limited by the professional secrecy code; and
2. when an intermediary is not subject to due diligence standards equivalent to standards stated in this Decision.

3.5. Private banking and publicly and politically exposed customers

In cases when persons known to be reach individuals or persons found on highly important public functions submit requests for account opening, banks are required to fully implement all procedures for customer identification and customer documentation and are also required to implement the same process to companies related to the mentioned.

Banks are required to collect all necessary information and documentation from the new or existing customer personally or by his intermediary, but to use maximum efforts to verify the same through public information or through information available to banks. Also, banks are required to perform a review of sources of funds found on these accounts before declaring the decision on account opening.

3.6. Non-face-to-face customers

Banks are required to implement efficient procedures for customer identification and to implement the standards for continuous monitoring of the same in relation to non-face-to-face customers who open accounts by telephone or by different electronic technologies, as for any other customer. In these cases, banks can perform an independent review of such customer by a reputable third party, such as the company specialised in due diligence reviews of customers.

In accepting a business relationship with non-face-to-face customers, banks are required to do the following:

1. implement equally efficient identification procedures as for other customers; and
2. determine special and appropriate measures for decreasing the higher risk level existing in operations with these persons;

Aside from other measures, banks are required to implement the following measures to decrease the risk:

1. certification of submitted documents;
2. require additional documents that are not obligatory for other customers;
3. bank contact with the customer;
4. engage the third party, that is the specialised due diligence company;
5. require that first payment is made in behalf of the customer and through an account of opened with some other bank that is also required to implement similar standards for customer due diligence reviews.

3.7. Correspondent banking

In the process of establishing correspondent relationships with other banks, especially with banks abroad, and in order to avoid situations where banks are exposed to risks of discovering to be involved in maintaining and/or transferring money connected with illegal, that is criminal activities, banks are required to perform a due diligence review of these accounts.

Banks are required to gather all necessary information on their correspondent banks in order to have a full knowledge of the nature of operations of their correspondent banks. Necessary factors and information are:

1. location (country) of correspondent bank;
2. management of correspondent bank;
3. major business activities of correspondent bank;
4. efforts of correspondent bank in area of prevention of money laundering and prevention of terrorist financing, as well as adequate customer acceptance policies and know your customer policies;

5. purpose, that is the reason for account opening;
6. identity of third party to be using the correspondent banking services;
7. condition of bank regulations and supervision function in the correspondent bank's country, etc.

Banks are allowed to establish correspondent relationships only with those banks that are located in countries where authorised institutions perform efficient bank supervision.

Banks are required to prevent the risk of correspondent accounts being used, directly or indirectly, by third parties to perform activities on their own behalf.

3.8. Courier and/or similar transactions through "money bag transfers"

Banks are required to establish special verification and monitoring procedures related to cash transactions known as "money bag transfers" that customer perform in person, through a courier or other persons performing transfers. Since these types of transactions, whether incoming or outgoing, include high risk, it is necessary for the bank to pay special attention and caution to these types of activities.

3.9. Dormant accounts

In cases of dormant accounts, banks are required to be especially careful if the same unexpectedly activate, especially if their activation involves transactions in larger amounts or if they involve some of the indicators of suspicious transactions. In cases like this, among other things, it is necessary for the bank to repeat the verification of the identity of the customer.

3.10. Vaults – safe-keeping

In activities related to the vault, that is safe keeping of certain items, envelopes or packages, banks are required to establish special procedures to adequately identify individuals and/or companies that are not their customers and that do not have accounts opened with them. An important element of these procedures is providing for the identification of the true owner of items in the vault.

4. "Know Your Customer" and Development of the Customer Profile

Article 11

In every day operations and relations with customers, bank must find out and get to know their customers' activities, to thoroughly understand their operations, to know their financial and payment habits, important information and documentation on customers' business relations and cash flows, types of business relations that customers maintain and to know their business contacts, their local and international market practices, common sources of debits and credits within their accounts, use of various currency, frequency and size, that is scope of transactions, etc. Banks are especially required to:

1. in the case of business companies to get to know the ownership structure of the company, authorised decision makers and all other persons who are legitimately authorised to act in their behalf;
2. request from its customers to submit information in advance and in timely fashion and to document any expected and intended changes in form of and in way of performing its business activities;
3. pay special attention to well known customers and publicly known persons and to ensure that their possible illegal or suspicious operations do not jeopardize bank reputation.

Based on the elements from the previous paragraph, banks are required to develop a profile of its customers. This profile will be included in the special registry of all customer profiles, as organized by banks them selves. The customer profile developed by the bank will be used as general additional indicator in the process of monitoring operations with customers and is also used for determining:

1. orderly, continuous and easy way of conducting operations and relations between the bank and the customer. This can be used to have an easy and quick review of customer at any given time; and

2. every unusual behaviour and differences in customer's behaviour already determined in the profile or in account turnover. This can be used for easy and quick identification and initiation of appropriate procedures.

5. Irregular and Uncommon Behaviour Giving Basis for Suspicion

1.18
The Indirect Tax Administration – RS Customs Administration is not competent for granting citizenship to foreigners or for issuing IDs. However, customs officers at border crossing make insight into passengers' IDs during verbal declaration of goods or into IDs of truck drivers' transporting goods across B-H borders, and if they suspect the validity of the documents, they report it to the State Border Service (SBS). Further, the Customs Service check the identity of persons registered by companies dealing with goods import, with a view to suppress the so-called «fictitious companies» (companies registered against false IDs).

1.19.
The Indirect Tax Administration – RS Customs Administration is not competent for prevention of falsifying, forging and illegal use of IDs and travel documents.
Nevertheless, if customs officers suspect IDs validity, they report it to the SBS and Ministry of Interior. Also, customs officers check identity of persons registered by a company for execution of foreign trade transactions, with the aim at suppression of use of the so-called «fictitious companies» (Companies registered against false IDs.).

1.20.
Indirect Tax Administration – RS Customs Administration is not a member of the World Customs Organisation, and accession to its membership is expected in September 2004. Also, the Indirect Tax Administration - RS Customs Administration - applies all Conventions, instructions and rules of the World Customs Organisation.
Surveillance of passengers crossing B-H border is the responsibility of the BH SBS, the Indirect Taxation Administration - RS Customs Administration - and all other relevant agencies for their respective parts of competence. Mutual relations between these institutions are defined by the Protocol on Mutual Cooperation between the B-H SBS and Customs Service, so appropriate cooperation between these bodies is provided for.

Banks are obliged to demand from their clients an explanation for every noted change of behaviour. In case clients cannot give reliable or give unconvincing and non-argumented explanation, banks should regard such behaviour as suspicious and activate their procedures for more detailed research, including contacting competent institutions.
Irregular and uncommon behaviour represents the basis for suspicion, such as:

1. Unexpected change in financial behaviour of a client that cannot be explained by business or financial motifs;
2. Unexpected appearance of a new person, job and/or geographical area against already known way of business-making and business and financial network of a client;
3. Special feature of a transaction not fitting into usual client's practice;
4. Use of funds from client's account for the purpose not usual or already included into the arrangement between the bank and its client;
5. Explanation of the transaction provided by the client is not convincible and seems fake;
6. When transactions below the amount subject to reporting to competent bodies, under the Law, occur frequently;
7. When a client closes its account by withdrawing its whole amount in cash or by distribution of the amount into several smaller amounts on newly opened accounts;
8. When bank staff is not in possession of clear evidence of criminal activities, but suspect a crime.

Attachment on suspicious financial transactions indicators is inseparable part of this Decision.

IV Policy On On-Going Monitoring Of Accounts And Transactions

1. Monitoring for Purposes of Prevention of Money Laundering

Article 13

Banks are required to perform an on-going monitoring of accounts and transactions as a basic aspect of efficient "Know Your Customer" procedures. For this reason, banks are required to previously receive and define responses to one of the most important questions of what is the nature of normal and reasonable or normal or regular activities within their customer accounts. When they accomplish that, banks are required to provide for means or instruments, methods or procedures for detection of transactions that do not fit into such nature of customers' behavior and are also required to use these procedures to efficiently control and minimize the risk in operations with customers.

Scope of bank's work on monitoring activities on customer's accounts must be adjusted to needs for adequate risk sensitivity. For all of its accounts, banks are required to establish a system that would enable them to detect all unusual, irregular and suspicious types of activities.

Article 14

In order to ensure fulfilment of goals stated in the previous article, banks are required to:

1. establish limitations to certain types or categories of account transactions;
2. pay special attention to and verify all account transactions that exceed the established limitations;
3. define types of transactions that will alert the banks to a possibility of customers performing some unusual, irregular or suspicious transactions;
4. define types of transactions that, by their nature, mainly don't have economic or commercial purpose;
5. define benchmarks and/or nature of amounts of cash deposits that are inconsistent with normal or expected transactions performed by certain types of customers;
6. define bank actions in cases of large turnover on accounts where account balances are usually not too high;
7. develop official and comprehensive list of examples of suspicious transactions and examples and methods of possible money laundering and terrorism financing cases.

Article 15

As for accounts that represent higher level of risk, banks are required to establish a more intensive monitoring process. In order to identify the categories of accounts with higher level of risk, it is necessary for the banks to establish a package of key indicators based on which accounts will be categorised in groups, taking into account background information and other information of the customer such as sources of funds for the account, type and nature of transactions themselves, customer's home country, etc. For the accounts with higher risk level, banks are required to:

1. create an adequate system for information management that will assure that bank's management and officers authorised to monitor compliance of bank's performance with the requirements prescribed by the Law and regulations for this area have timely information necessary for identification, effective monitoring of customers' accounts with higher level of risk and their analysis. As minimum, this system has to include the following:

a) reporting about the documentation that is missing in order to have a full and safe customer identification;
b) reporting about strange, unusual and suspicious transactions performed through customers' accounts; and
c) reporting about an overall information regarding all customer's business relationships with bank.

2. make sure that the management responsible for bank's performance in the area of private banking has good knowledge of the situation of bank's customer that represents higher level of risk, to be alert and to evaluate the information that can be received from some third party. Significant transactions of those customers should be approved from the management.

3. adopt a clear policy, internal guidelines and procedures and to establish control with special task to control prudential performance in relation to a politically exposed individuals, other individuals and companies where it is confirmed or it is clear that they are connected to them.

2. Monitoring for Purposes of Prevention of Terrorism Financing

Article 16

Reporting to an authorised institution and blockade of financial assets where bank has suspicion or knows that they are used to finance terrorism or individuals who support terrorism represents the main precondition to fight against terrorism. The most attention, banks have to pay to the following:

1. to the extent possible, check whether the funds coming from legitimate sources or businesses are, fully or partially, directed to support terrorist financing;
2. based on information received from the institution authorised to monitor and update the list of organisations and individuals related to terrorists or terrorism;
3. implementation of procedures for prevention of financing terrorists and terrorist organisations, including an urgent reporting to the authorised institutions about suspicious transactions detected;
4. attempts to discover a true identity and/or purpose of small transfers when purpose of the transfer and/or sender and/or recipient is precisely stated;
5. cases where customer's order unexpectedly results in zero balance;
6. the same like in the cases of money laundering where money is received and sent electronically, along with strange or unusual aspects, such as size of the amount, country where the money is sent, home country of the ordered, type of currency, etc.
7. non-profit and humanitarian organisations, especially if the activities are not in accordance with the registered activity; if the source of funds is not clear; if organisations receives funds from strange and suspicious sources.

V. Policy On Money Laundering And Terrorism Financing Risk Management

1. Responsibility of Bank's Bodies and Reporting

Article 17

Bank's Supervisory Board is responsible to adopt an effective Program and to ensure that banks are implementing adequate control procedures that will provide for program, policies and procedures, as well as their composite part, to be fully implemented in practice.

Bank's "Know Your Customer" policies and procedures should be effective and should include regular procedures for adequate and successful supervision by management board, internal control system, internal audit, delegation of duties, training of adequate employees and other segments that are in close connection with this area.

In order to implement bank's policies and procedures, bank's Program has to clearly define responsibilities and delegation to adequate carriers, that is, delegation to adequate organizational units or functions, management board, other management and other employees of bank.

Article 18

Line of reporting about strange, unusual and suspicious transactions of customers, that are prescribed in the law, must be clearly defined in written form. This reporting in practice has to be regular, effective and available to all parts of the bank and individuals, and fully in accordance with internally prescribed reporting policies and procedures.

Article 19

Along with the requirement from previous Article of this Decision, banks are required to adopt internal procedures for reporting to the authorized bodies outside of bank, which is in accordance with applicable laws and regulations, all prescribed information and data.

Banks are required to fully perform their reporting requirements according to the law of the prescribed institution.

Article 20

Banks are required to keep the documentation for all transactions performed by customers and in relationship with the customers, sorted by type, way they were performed and deadline prescribed by applicable law.

2. Appointment of Activities Coordinators

Article 21

Bank's Supervisory Board is required to ensure that banks in their management appoint persons who will have responsibility for coordination of all activities of the bank in monitoring compliance with all laws and other prescribed requirements subject to this Decision and effective implementation of the Program.

Coordinator for bank's compliance with prescribed requirements for anti-money laundering activities and terrorism financing (the Coordinator) should:

1. be responsible for regular functioning of reporting function towards the authorized institutions, prescribed laws and other regulations, all transactions over the prescribed amount, all related and suspicious transactions;
2. be responsible for regular functioning of lines of reporting in accordance with the Program;
3. have required qualification, knowledge, experience and good working and moral reputation;
4. have necessary funds to perform its functions including at least two officers, where one of the is responsible for monitoring the process of detection of suspicious customers and the other is responsible for monitoring the line of reporting of authorities and internal lines of reporting, and they also have authorizations for making independent decisions and seeking legal support. With larger banks, it is necessary to estimate the need for several such officers;
5. on day-to-day basis, have full access to the customer monitoring system;
6. receive daily reports on suspicious activities of customers;
7. have authority to issue an order for implementation of procedures stated in the law, regulations and the Program, and inform the management and supervisory board of the bank on the same;
8. have ability to monitor local procedures and procedures on relations with abroad in order to confirm certain suspicions;
9. undertake certain steps to improve its knowledge and skills, as well as the knowledge and skills of his subordinates and of other relevant bank staff;
10. at least once every quarter, submit report to the supervisory board and management of the bank on bank's actions and bank's compliance with the Law on Prevention of Money Laundering and Terrorist Financing, as well as on actions taken against certain suspicious customers;
11. at least once a year, perform a review of adequacy of existing Program, policies and procedures and provide supervisory board with recommendations to update or improve the same;
12. if necessary, provide full support to activities performed by the bank's internal auditor;
13. in his procedures, include elements related to internal investigation of liability of bank staff who neglected their duties in this area;

3. Internal and External Audit of Banks

Article 22

Internal auditors in banks are required to perform regular controls and to ensure that the program, policies and procedures for prevention of money laundering and terrorism financing, that is "Know Your Customer" policies and procedures, are fully implemented and complied with all requirements stated the Law and other regulations.

Compliance of banks' operations with requirements stated in the Law and regulations should be a subject of independent review performed by the bank's internal auditors, which includes evaluation of adequacy of bank's policies and procedures from the aspect of legal requirements and other regulations.

A required function of internal audit in banks is to continuously monitor whether and how does bank staff perform and implement requirements stated in the program, policies and procedures, by using compliance tests if there is an adequate sample of customers, accounts and transactions, as well as to test the correctness of reporting of irregular, uncommon and suspicious transactions defined in the Law and other regulations.

Article 23

Internal audit function in banks should represent a full independent evaluation of risk management and performance of internal control systems in banks. Internal audit is required to periodically report the Audit Board and/or Supervisory Board of the bank on its findings and evaluations based on the law. These reports should include findings and evaluations of efficiency of banks regarding all issues prescribed by the law and regulations, program, policies and procedures of the bank which regulate bank's responsibilities in prevention of money laundering and terrorism financing. One important part of these reports is evaluation of adequacy of bank staff training in this area.

Article 24

Bank's supervisory board is required to ensure that its internal audit function is technically equipped with such personnel who have thorough knowledge of the program, policies and procedures, as well as who possess high ethical and expert capabilities, especially in the "Know Your Customer" area.
In addition to this, internal audit staff has to be fully proactive in monitoring activities that banks are required to perform on the basis of findings and evaluations done by the internal audit, external audit and enforcement bodies.

Article 25

In the process of performing independent external audit of their financial statements, banks are required to arrange with independent external audit firms to also work on evaluation of implementation of legal and regulatory requirements of banks, implementation of the program, policies and procedures, internal control systems and performance of internal audit in banks, as well as to evaluate whether bank's operations are in compliance with requirements related to prevention of money laundering and terrorism financing, by using testing technique.

4. Bank Staff Training

Article 26

Banks are required to provide for continuous training of all its employees involved in their program of prevention of money laundering and terrorism financing. Content of this training should encompass, at the minimum, the following topics from the mentioned area:

1. **legal requirements of banks and responsibilities stated in other regulations;**
2. **program, policies and procedures of the bank;**
3. **detailed elements of "Know Your Customer" policy;**
4. **exposure of banks to money laundering and risks to the bank and duties of bank staff;**

5. strengths and weaknesses of financial institutions in prevention of money laundering and terrorism financing;
6. duties and authorities of the Coordinator;
7. internal control system;
8. internal audit system;
9. recommendations of the Basle Committee for Bank Supervision, especially related to customer due diligence;
10. FATF recommendations for prevention of money laundering and terrorism financing.

Banks are required to adjust the frequency of training and training topics mentioned in the previous paragraph to realistic needs of their organizational units, functions and/or its staff, and for purposes of timely compliance with new requirements and for purposes of learning about new events, as well as for the purposes of maintaining the existing knowledge and experience of its staff, banks are required to establish a regular training program.

In deciding on training needs and on types and scope of training mentioned in the previous paragraph, banks are required to adjust their training focus depending on whether training is intended to a newly employed staff, to staff directly working with customers, staff working with new customers, staff ensuring that bank's operations is complied with requirements of the law and other regulations, other executives, management and/or supervisory board, etc.

Through their training program, banks are required to ensure that all relevant staff fully understands the importance of and necessity for an efficient implementation of "Know Your Customer" policy and for such understanding to be a key of success in its implementation.

Article 27
In order to improve technical skills and efficiency of all staff, banks are required to develop a comprehensive manual that would include: Law on prevention of money laundering in FBiH, Rules on the method and deadlines for informing the Financial Police related to money laundering and on the method of maintaining a record of all gathered information, Law on Banks, other regulations prescribing prevention of money laundering and terrorism financing. Bank program, including all policies and procedures, rules for staff performance, methods of detection of illegal and suspicious activities, duties and authorities of the Coordinator, description of certain specific examples of misuse, translation of the Basle Committee publication on "customer due diligence", translation of the FATF Recommendations for prevention of money laundering and terrorism financing, staff training program and Attachment to this Decision."

1.8.
The RS AML Division has two (2) inspectors, two computers and no additional resources or equipment, which speaks enough for itself.
Please note, in regard to precise pointing at the question we provide answer to, the question under 1.13 certainly does not pertain to the AML Division frame of work, in view of the issue of confiscation of illegally acquired assets (Criminal Code, as the issue for judicial bodies) and the state level of strategy development.

1.8.
The FBH AML Office currently employs 5 people, and its financial-material capacities are insufficient for required range and quality of the activities, which are the responsibility of FBH Financial Police AML Office.

1.9.
As of lately, (March 10, 2004) a considerable move forward took place in education of staff in administrative, investigative, prosecution and judicial bodies and law enforcement agencies, including on the Law on AML and CLT. Namely, several AML and CFT and anti-organised crime seminars have been already held under the auspices of OHR, US Department of Justice, WB, and IMF.

Note:
During their inquiries, the FBH Financial Police inspectors collected data revealing that humanitarian organisations in BH supported activities of natural persons and legal entities suspects of terrorism. Based on these facts and evidence, these humanitarian organisations accounts were blocked and operations banned, such as:

- «Global Relief Foundation» USA P. Box 1406 Bridge View, representation office in Sarajevo, St. 30/a Put Mladih Muslimana;
- «Talibah International Aid Association», USA Virginia 12, representation office bb. Hadželi, Hadžići;
- «Al Harmin Islamic Foundation», Saudi Arabia, representation office at 13 Bihačka St., Sarajevo;
- «Al Harmain & Al Masjad Al Aqsa», Saudi Arabia, Riyadh 11574, representation office at 2a Hasiba Brankovića, Sarajevo;
- «Vezir», 64 Poturmahala, Travnik;
- «Sirat», 30a Put Mladih Muslimana, Sarajevo;
- «Džemijet El Furkan», 30a Put Mladih Muslimana, Sarajevo;
- «Istikamet», 53 Štrosmajerova, Sarajevo;
- «Bosanska Idealna Future», 12 Salke Lagumdžije, Sarajevo;
- «Benevolence International Foundation», USA Illinois

1.9.

1. Prosecutorial and judicial bodies in BH implement constant all-level training, aimed at tracing property earned by criminal activities.
2. In addition to the Public Institute Centre of Judicial and Prosecutorial Education, the training is implemented also via and by a direct moderation of the USA Justice Department and EU specialised bodies.

The programmes implemented lately include:

a) «Prosecutors Role against Corruption and Narcotics: Spanish Experience» - Programme Institutional de Cooperation (21.11.2001)
b) «Financial Crime and Money Laundering» - International Criminal Investigative Training Assistance Program – ICITAP - U.S. Department of Justice (03-07 March 2003.)
c) «Criminal Procedure Training» - U.S. Department of Justice – Office of Overseas Prosecutorial Development Assistance and Training (OPDAT) – (5-14 May 2003.)
d) «Financial Crime Training Seminars» - «Basic Principles of Financial Investigations»; «Confiscation of Assets and International Cooperation" – U.S. Treasury Department – TA Office (OPDAT) and U.S. Justice Department – «Development of Overseas Procession» and «Assistance and Training» (4-5. 6-7. 11. 2003.);

Finally, issues of «seizure, freezing or taking away« of assets are regulated by the BH Criminal Code in its Article 391, paragraph 1 in a way that it prescribes obligatory taking away of all items to be taken away under the BH Criminal Code (criminal act of ML under the Criminal Code Article 209, paragraph 4, under which money and proprietary benefits are obligatory taken away), also for the general security reasons in the cases when a criminal procedure is not finalised by a verdict declaring the accused guilty.

1.9.

The Investigation-Security Agency does not possess knowledge on organisation of specialist programmes or courses (held by BH) aimed at training of administrative, investigative, prosecutorial and judicial bodies for law enforcement in regard to typologies and trends in methods and techniques of FT, and techniques of tracing assets acquired by criminal activities or used in FT. However, the programmes or courses, which, at least in a part, can

be treated as courses that offer training in law enforcement in connection to typologies and trends in FT methods and techniques and techniques of tracing assets acquired by criminal activities or used in FT, organised by BH institutions, independently or in cooperation with international agencies, and with the participation of OSA, are the following:

1. The training organised by the ex-OSS of FBH, in cooperation with the FBH Banking Agency, with the following topics covered:
   - ML – control;
   - Ml techniques;
   - ML Detection and Prevention;
   - Intentional institutions;
   - Banking Agency experiences in AML prevention monitoring.

2. A course organised by ex-OSS FBH in cooperation with the FBH Tax Administration, addressing the following topics:
   - Practical modes of evasion and avoidance of tax obligations,
   - Fictitious firms,
   - Anti-tax evasion measures.

3. A course organised by ex-OSS FBH in cooperation with the FBH Banking Agency and US Department of Justice addressing the following topics:
   - ML as a global threat,
   - Investigation of fraud in financial institutions,
   - ML typologies and techniques
   - Global anti-corruption strategy,
   - Seizure of assets – law enforcement means in fight against frauds and ML.

4. Internal seminars organised by ex-OSS FBH on ML and financial crime, where knowledge and experience were shared from similar seminars held by BH and international institutions.
5. Internal seminars organised by ex-OSS FBH on fright against terrorism and FT prevention.
6. Courses organised by ex-OSS of FBH and its counterpart intelligence services addressing, inter alia, fright against terrorism and CFT.

Also, note that we are not aware of any programmes in BH designed for education of various sectors of economy on way of detection of suspicious and unusual transactions related to terrorist activities and ways to prevent illegal money movement.

However, the Agency develops its cooperation with BH institutions, in order to counter terrorism in general, as effective as possible, and, more specifically, financing of terrorist activities in BH and beyond.

1.9.

Pursuant to your communication, please find below the following data:

Training on typologies and movements of FT methods and techniques is offered by BH to its investigative bodies, i.e. law enforcement agencies and State Agency of Investigation and Protection, via international agencies.

In that regard, it is important to mention the following training courses, attended by the Agency officers:

- In period February 22 – February 28, 2004, at the «International Law Enforcement Academy» in Budapest, an US-held seminar on "Role of Police in Countering Terrorism«», including among the topics the «Financial Aspects of Terrorism and Importance of Material Support»;
- The SU FBI, with its countering terrorism and organised crime programme, with a view at prevention of and deepening of mutual cooperation and exchange of ideas with the BH law enforcement agencies,

organised one week training on FT and ML at the International Law Enforcement Academy (ILEA) in Budapest, Hungary, on July 12-16, 2004;

- In period May 31 – July 23, 2004, also in the ILEA in Budapest, a seminar on fight against organised crime, illegal narcotics dugs trading, illegal border crossing, and all similar topics was organised by the State Department, and a special attention was paid to the countering terrorism;
- In period October 11-15, 2004, a training course was planned to be held at the ILEA, also organised by the State Department/Diplomatic Security Bureau on «Executive Role of Police in Countering Terrorism»;
- As to Agency officers education on identifying and tracing unusual and suspicious transactions relating to financing of terrorist activities and prevention of illegal ML, the aforementioned courses contained mentioned topics, and the same will certainly contribute to future operations of Criminal-Investigative Division and Financial-Intelligence Department.

1.10.

According to the BH AML Law, the role of the financial-intelligence operations is to detect and investigate ML. The Law Article 23 particularly regulates the ML prevention and, in that connection, FT. We so not possess data on way of audit in financial institutions. We deem the answers to this question can be obtained from the Ministry of Finance and Treasury of BH or Financial Police of FBH, or AML Division of the RS Ministry of Finance. We believe that in order to prevent misuse of financial institution for illegal purposes, such as ML or FT, additional funds should be established, along with training and expert support needs, along to facilitation of control to the banks and regulatory agencies via provision of lists of suspect clients, if any, at the state level. No relevant data were available to us, so we referred to the BH Prosecutor's Office for the same.

1.11

The BH Banking Agency (hereinafter Agency) is an independent financial institution of FBH, established by the Law on Banking Agency of FBH ("Official Gazette of FBH", 9/96, 27/98, 20/00, 45/00, 58/02, 13/03, 19/03). The Agency's core tasks are defined under the Article 4 of the Law and the Resolution on Bank Supervision and FBH Banking Agency Procedures ("Official Gazette of FBH", 3/03), and, in a nutshell, they would be the improvement of security, quality and legal operation of market-oriented stable banking system in FBH.

The Agency is obliged to facilitate banks-related anti-terrorist measures, based on appropriate legislation and in accordance to the UN Security Council specific resolutions and within the cooperation it has with relevant institutions in this regard. The provisions of Article 4o of the Law on Agency, further define that the Agency is obliged to undertake all operations, as appropriate, including the blocking of a client's account in any bank in BFH with a in view to FT prevention. The Article 4 also includes among Agency's task, as amended by the Office of High Representative, the following:

- Operations facilitating anti-terrorist bank measures, on request of the authorised body, based on appropriate law or in accordance with the relevant UNSC resolutions, i.e. in cooperation made with other institutions;
- Requesting the BH Central Bank to open a special account for reserves on behalf of a commercial bank which holds an account of any client defined in the appropriate paragraph above;
- Requesting bank(s) holding blocked accounts, in the sense of the relevant paragraph above, to transfer funds from these accounts to the safeguard account with the CBBH HQ or one of its major offices.

It runs further as follows:

In order to avoid any ambiguity, the FBH Banking Agency is explicitly determined hereby that it can (without prejudice to overall range of measures at its disposal under the FBH Law on Banks) rescind permission for operation to the bank failing to fulfil the order for blocking of accounts or to fulfil any request stemming from the Article 4 of the Law.

Every individual, legal entity or a body of persons, bank or non-bank, which knowingly or deliberately act in a way to prevent or try to prevent the execution of the blocking request, referred to in the previous paragraph, by way of transferring or attempting to transfer from the account the funds, risks, in case of a bank, to lose its licence for operations, or in case of an account holder, risk blocking of his account and treating it further as explained above. Each individual, legal entity or a body of persons, that consciously or negligently acts in a way to help avoidance or an attempt to avoidance of a blocking order, referred to in this Article, in a way that funds are transferred or attempted to be transferred to or from an account, the FBH Banking Agency can prescribe a fine up to double fold amount in question, and the Agency, in addition, has the right to execute the same as a debt established by a court order in litigation.

In case of a natural person, legal entity or body of persons executes a transaction by which it avoids or bypasses the blocking order, issued in the sense of Article 4 of this Law, or tries to execute such transaction, the Agency has right to demand from the natural person, legal entity or body of persons to present all documentation in connection to the mentioned transaction.

The mentioned Agency is authorised to initial a process with the competent court (same is referred in the Article 3 of the FBH Law on Banks) of seizure of assets, business books and documentation of each natural person, legal entity or a body of persons, which consciously acts in a way to cause avoidance or attempt to avoid blocking order, as earlier defined, and to consequently proceed to business operation liquidation of such individual legal person of body of persons.

Provisions of the Law on Banks Article 47, quoted in paragraph 1.7. define that a bank must not make conversions or transfers, or mediate in acquisition, conversion or transfer of funds or other assets, for which it knows or it might reasonably suspect that they may be used in terrorist activities or for supporting persons involved in terrorist activities.

1.12 Concerning the question under 1.12, please note that this matter is not regulated at the state level, but rather by the RS Law on Banks ("Official Gazette of RS", 44/03) and FBH Law on Banks ("Official Gazette of FBH", 39/98 and 19/03).

1.13. No answer

1.14. No answer

1.15.

The AML Law Article 15 defines that the BH Agency for Information and Protection Financial-Intelligence Division is responsible for tasks concerning prevention, investigation and detection of ML and FT operations and for coordination of cooperation with various competent bodies in BH, FBH and RS and the Brčko District in the area of ML and FT prevention, including cooperation with relevant bodies of other states and international organisations. For the provision of additional data required under this item, we referred to the BH Prosecutor's Office.

1.1.5.

The Indirect tax Administration – The RS Customs Administration cooperates with all competent state law enforcement bodies. Mutual cooperation provides for exchange of data and undertaking of certain tasks on request from other state bodies, all towards the prevention of criminal acts.

Also the Indirect Tax Administration – the RS Customs Administration cooperate with customs services abroad based on bilateral agreements (Croatia, Serbia, Monte Negro, Macedonia and Turkey) and on the multilateral Agreement on Cooperation on Prevention and Fight against Cross Border Crime in SEEE (SECI Agreement: Albania, Bulgaria, Greece, Hungary, Macedonia, Moldova, Croatia, Turkey, Romania and Slovenia). This cooperation targets cross-border crime that involves violation of or an attempt to violate state laws and regulations in terms of organisation, direction, assistance and facilitation of international criminal activities.

All these CFT activities are carried out via the SECI Centre in Bucharest through three operative groups as follows:

- Operative group for anti-terrorism,
- Operative group for fight against illegal trade with small and light arms,
- Operative group for nuclear materials.

Within its competences, the RS Customs Administration has taken part in the operative groups' activities to date. In addition, the Administration is responsible also to respond to other customs administrations' requests.

1.15.
Under the Criminal Procedure Code, the Department for Customs Fraud Prevention officers are the authorised persons who act as per Prosecutor's order, and they are obliged to report to Prosecutor the suspected commission of a criminal act.
Based on Article 30, paragraph 2 of the FBH Customs Service Law ("Official Gazette of FBH", 46/00) the Rulebook was published on measures and responsibilities of the customs officers in the process of detection, investigation, prevention, documentation and reporting of criminal acts related to customs. For measures and tasks to be undertaken by authorised customs officers, necessary assumptions need to exist as to a suspected commission of a criminal act as defined under Articles 272a, 272b, and 272c.

1.16.
The undervaluing of the imported goods - customs evasion - is dealt with as a customs criminal act. The undervaluing is addressed by financial police.

1.16.
The Indirect Taxation Administration - the RS Customs Administration - applies the Law on ML Prevention, and, pursuant to the Law, it reports to the AML Department, which undertakes the follow-up measures.
The Customs Service informs the AML Department on cases of taking away money at borders if it happens that the real value of goods was overestimated.

1.17.
The Indirect Tax Administration - the RS Customs Administration – applies the RS Law on Foreign Currency Operations ("Official Gazette of BH", 28/04"), Rulebook on Monitoring of Foreign Currency and Foreign Trade Operations ("Official Gazette", 28/04), Decision on conditions for approval of deadline extension for payment of exported goods and services and of import deadline extension for prepaid goods and services ("Official Gazette", 15/04), as well as the Decision on ways and conditions to execute payment and collection in effective foreign currency and KM in cash transactions with non-residents ("Official Gazette", 50/04). The Indirect Taxation Administration - the RS Customs Administration - reports detected illegal activities to the RS Foreign Currency Inspectorate, which undertakes appropriate follow-up measures.

1.17.
Aiming the implementation of the resolution on prevention of FT, an important role belongs to the future work of the Financial Intelligence Department (FSO) within the Agency, under the BH Law on Agency for Investigations and Protection and AML Law, which will receive, collect, register, analyse, investigate and transfer to the Prosecutor's Office needed information, data and documentation, in accordance to the BH AML and CFT legislation and regulations.

1.17.
The control of cross-border movement of cash and negotiable payment instruments is regulated by the Law on ML Prevention in FBH ("Official Gazette", 08/00).

1.18.

The Indirect Tax Administration – the RS Customs Administration - is not competent to grant citizenships to foreigners, nor is it commented for issuance of IDs. However, customs officers at border crossing make insight into passengers' IDs during oral declaration of goods or IDs of truck drivers transporting goods across B-H borders, and if they suspect the validity of the documents, they report it to the State Border Service (SBS). Further, the Customs Service check the identity of persons registered by the companies dealing with goods import, with a view to suppress the so-called «fictitious companies» (companies registered against false IDs).

1.19.

The Indirect Tax Administration - RS Customs Administration – is not competent for prevention of forgery, falsifying and illegal use of travel documents.

However, if customs officers have suspicions over the accuracy of a travel document they report it to the State Border Service (SBS) and Ministry of Interior. Also, customs officers check identity of persons who incorporated their companies for foreign trade operations, in order to prevent operation of the so-called "fictitious firms" (companies registered against false IDs).

1.20.

The Indirect Tax Administration – the RS Customs Administration - is not a member of the World Customs Organisation, so its membership is expected for September 2004. However, the Indirect Tax Administration – RS Customs Administration- applies all conventions, instructions and guidelines of the World Customs Organisation. The surveillance of passengers crossing the border with BH is responsibility of both the SBS, and the Indirect Tax Administration – RS Customs Administration - each within its competences. The mutual relation between these tow bodies are defined by the Protocol on Mutual Cooperation between the SBS and Customs Service, thus providing for the appropriate cooperation between these two bodes.

1.20.

The Agreement on Mutual Cooperation between the SBS and the BH customs services regulates the cooperation between the SBS, and customs administrations of FBH, RS and BD, pursuant to the Agreement concluded on August 1, 2001, aiming the prevention of criminal acts and offences related to borders.

1.20.

Under the present UNSC Committee for Fight against Terrorism questionnaire, we would like to give answers and present the following facts in respect to responsibility and competence of the BH Department for Civil Aviation in view of the civil aviation security.

BH is a full member of the International Organisation for Civil Aviation (ICAO) and it is signatory to all international conventions from the area of civil aviation and its security. We would like to highlight hereby the importance of the Chicago Convention and its 18 Annexes, particularly Annex 17, establishing the Aviation Security Standards and Recommended Practices.

In accordance with the Chicago Convention and its Annexes, the BH Law on Aviation ("Official Gazette of BH", 2/04), created the legal framework for adoption of necessary by-laws on aviation security in BH.

The BH Ministry of Communication and Transport established the State level Committee for Security of Civil Aviation of Bosnia and Herzegovina ("Official Gazette of BH", 12/04).

The Decision of the Ministry of Communication and Transport (No. 01-29-851/04) established the Civil Aviation Security Programme in BH ("Official Gazette of BH", 26/04).

By the end of August, a series of rulebooks, procedures and plans are expected to be adopted (which we owed to develop and adopt in line with the International Standards), which would allow for a full implementation of the Civil Aviation Security Programme in BH, and match high standards of the ICAO practice against illegal deeds. We would also like to mention here that the activities at airports and other institutions are ongoing on finalisation and harmonisation of the existing airport security programmes and air operators' security programmes with the mentioned Civil Aviation Security Programme in BH, as the adoption of the programmes will finalise the process of compliance to the ICAO membership requirements.

The BH Civil Aviation Department is the contact point with ICAO and other international civil aviation organisations and it is also a coordinating body for International Standards and Recommended Practices implementation, in relation to civil aviation security, among other things. It is responsible for civil aviation security implementation by testing airport and air operators' security, i.e. implementation of measures adopted by the BH Civil Aviation Security Programme.

1.21.

B) Export control: the customs offices in implementation of the procedure of import-export and transit of arms, military equipment and ammunition and their components, i.e. conditions that need to be meet and documentation that need to be produced:

- The Law on Import and Export of Arms and Military Equipment ("Official Gazette of BH", 5/03), which defines ways and conditions for import, export and transit of arms and military equipment, and defines the arms, military equipment, authorised bodies for issuance of permissions for import/export and transit and mediation in trading with arms and military equipment, and conditions for issuance of permissions and other issues in regard to the foreign trade with these items.

Further, in relation to application of this Law, the BH Ministry of Foreign Trade and Economic Relations published the Joint List of Military Equipment in "Official Gazette", No. 9/03, which includes set of rules of conduct of the EU on arms export procedures, and it developed the following:

- Guidelines on procedures of customs bodies in application of the Law;
- - Attachment 1: list of arms, ammunition and special equipment, materials for military use and related technologies (as a part of "Joint List"), according to tariff marks form the Customs Tariff Law of BH, as subject to import approval; and
- Attachment 2 – List of arms, ammunition and special equipment/materials for military use and related technologies (as a part of the "Joint List"), according to the tariff marks from the BH Customs Tariff Law, which is a the subject to approval on export from BH.

The Ministry also adopted the following:

- The Guidelines on Regulation of Import/export and Possession of Arms and Military Equipment;
- Guidelines on Procedures of Registering of Legal and Natural Persons and Transfer of Arms and Military Equipment; and
- Decision on conditions and procedures of production cooperation contract registration from the area of arms and military equipment ("Official Gazette of BH", 14/03).

Customs bodies demand all approvals necessary for import, export, transit or renewed export of these products from the Joint List and in accordance with the Customs Policy Law in BH ("Official Gazette of BH", 21/98, 10/02), in order to implement the procedure for import and export, including temporary import or export, transit and renewed export.

Also, the Decision on classification of goods for import or export regimes ("Official Gazette of B-H", 22/98, 30/02 and 04/2) determines that for the mentioned items it is necessary to obtain permission from the competent Ministry.

For reviewing the import, export or transit, in respect to the goods treated as "hazardous materials" the customs bodies apply the Law on Transport of Hazardous materials ("Official Gazette of SFRJ", 27/099, i.e. the permits are demanded to be presented by importers or exporters dealing with that kind of items.

In customs procedure in case of these items, all necessary due diligence measures are employed for the full law observance, including cooperation with other competent bodies at Entity and BH levels.

1.21. In terms of commitments stemming from the resolution, according to which every member has appropriate mechanisms to deny access to arms by terrorists, rights and obligations of the State Investigation and Protection Agency of BH (SIPA), in accordance with the Law on Investigation and Protection Agency, are: prevention, detection, and investigation of criminal acts within the competences of the BH Court, which presumes the criminal offence such as: illegal trade with arms and military equipment, referred to in the BH Criminal Code Article 193, possession of nuclear material, referred to in Criminal Code Article 194, and other criminal offences that might be in connection with the above mentioned.

1.21.
From January 2003, the key parties in decision-making on production and trade of armaments and military equipment are Entity authorities, i.e. Defence Ministries, which monitored and regulated every move of arms through BH territory. Through the recommendation to the parties by the SFOR Commander in BH, SFOR would have, following its own rules, a role to regulate every transfer of arms to and from BH.

Responsibility for arms control belong to four ministries:

- Ministry of Foreign Trade and Economic Relations (MOFTER);
- Ministry of Foreign Affairs (MIP);
- Ministry of Security (MS);
- Ministry of Defence (MD).

The Law on Import and Export (March 2003) specifies conditions for arms import, export and transport through BH, as well as the responsibilities of various institutions in BH, including conditions for registration, issuance of permits and sanctions.
The Law on Investigation, Branding and Marking of the Small Arms and Ammunition (July 2003.) determines that small arms and ammunition, before being put into circulation, are subject to testing, branding and marking.
The Law on Production of Arms and Military Equipment (February 2004) completes the legal framework for the operation of military industry in BH. Under that Law, all producers of arms and military equipment have to be registered and licensed by the MOFTER, after being granted approval by the Entity Governments.
In lieu of the legal regulations on storing and trade with arms, explosives, gunpowder and military equipment, laws and by-laws of ex-SFRJ and the Socialist Republic of Bosnia and Herzegovina are still in application, such as the Law on Transport of Hazardous Materials ("Official Gazette of SFRJ", 27/90), Rulebook on Maritime and Inland Waterways Transport of Hazardous Materials ("Official Gazette of SFRJ", 17/87), Rulebook on Protection in Dealing with Explosives, Gunpowder and Manipulation with Explosives and Gunpowder ("Official Gazette of SFRJ", 55/99), and Rulebook on Obligatory Evidence on Produced and Purchased Explosive Materials ("Official Gazette of SRBiH", 10/77).

1/. National Marking System

a. Marking

Bosnia and Herzegovina is not the producer of all kinds of small and light arms. It has potential to produce almost all kinds of ammunition of calibre 12.7mm, hand bombs, mortar launchers and mortar shells of calibre 100 mm and more, non-reckoning armaments and ammunition of calibre 82 mm, hand anti-armour pieces of

calibre 64 mm and 90 mm, as well as other pieces, but in limited quantities and limited potentials, as both capacities and human resources have been devastated during the 1992-1995 war. However, BH armed forces store certain quantities of small and light arms that reached Bosnia and Herzegovina during the war. A number of these means was unmarked or markings were removed. Other marks that exist on armaments of such origin are different and they usually refer to production countries. In Bosnia and Herzegovina, the way of marking is such that contains alphanumerical signs, while no other symbols are in use. Marking are made to a visible place of the pieces themselves, as well as to their packing. The markings look as follows:

SRB 8702-01 or 124 0301
SRB: producers name (e.g. Slavko Rodić-Bugojno),
87 – last two digits of year of production (i.e. 1987)
02- production series
01- series instalment

Nowadays:
124 – producer's code – Bugojno
03 – last two digits of production year (2003)
01- Production series.

Also ammunition mark is put for kind and model of ammunition, as follows:
TF, M68P1,

TF – immediately fugacious ammunition,
M – model
68 – year of introduction of ammunition to armament
P1 – repairs and order of repairs

Marks are put to packing, especially in case of ammunition. As of recently, during overhauling of certain kinds of arms, marks are put to appropriate places as recommended by UN and NATO, and they refer to danger classes (e.g. 1.4S9, UN No. /(e.g. 0345), and NSN (National stock Number, e.g. 1305-XX-215-4502, from which it can be ascertain the country of production). Marks on arms (recoilless cannons and mortar launchers are made by cold branding to barrel or breech, and the marks are secret). Ammunition can be coded also by colour as to the type of bullet, so, for example, black colour marks the penetration ammunition.

b. Techniques of marking in Bosnia and Herzegovina

Bosnia and Herzegovina has producers for light and small arms and overhauling institutes, which were trained during the war to produce ammunition and to overhaul arms. Each arms producer in BH has its marking system under the Law on Production of Arms and Military Equipment ("Official Gazette of BH", 09/04). Technologies and construction documentation are inherited from the ex-Yugoslav Peoples' Army facilities. Each producer has data base on pieces produced, including pieces components kept in warehouses, data on inflow and outflow of semi-products, and finally, data on end-user to whom the products were delivered.

The techniques are used in order to mark pieces identically as they are marked in other countries, members of the OSCE, the colouring being the main method. Colouring can be done by applying pattern or by "sito-print". Metal parts are marked usually by applying cold marks by branding, while some parts are marked by engraving. Hot branding and casting process of markings are not in application at present, but there is no impediment for their use.

c. State procedures for marking of unmarked arms and ammunition

The state policy in the area of unmarked armament is regulated by the Law on Testing, Branding and Marking of the Small Arms and Ammunition ("Official Gazette of BH", 21/03), and it defines that hand fire arms and its ammunition produced in the territory of Bosnia and Herzegovina or imported from abroad are subject, before trading, to testing, branding and marking. Further, the same Law regulates that all kinds of hand instruments and devises, which use gunpowder gas energy for operation, such as apparatus for coupling solid materials, pistols for cattle stunning, devices for tear gas bullets, devices for procession of metal by deformation, signal start pistols and similar, are subject to testing and branding. The information on laws prescribing such due diligence on arms and/or details on record keeping can be found with the competent Entity ministries.

d. State authority competent for marking

The Sector ministry responsible for implementation of the mentioned Law and development of by-laws, which will be matched with the recommendations of the Standing International Commission for Hand Arms Tests (CIP), is the Ministry of Foreign Trade and Economic Relations. The Law implementation is in its inceptive phase in BH. However, despite the slow implementation of the central State regulations, the marking system is established in BH, which is consistently applied and observed. Holders of the direct process of marking are the producers.

e. State control over private sector in relation to marking

In Bosnia and Herzegovina, there is no private sector in this area, as the production of armament and military equipment is under a full control of the State, but the Law provides for a full state control over the private sector of arms production, once the same is established.

f. State legislation and practice for monitoring armaments and record keeping

In respect to the licensed production outside Bosnia and Herzegovina, there is no such arrangement.

g. Information on means for monitoring of arms and/or details on record keeping

Subject to the BH Law on Production of Arms and Military Equipment, the Ministry of Foreign Trade and Economic Relations runs the central register of the legal entities authorised for arms and military equipment production and is responsible for the supervision of the Law implementation. Staring form June 2004, Entity Ministries for Industry will be responsible for a permanent supervision of legal entities authorised for production and reporting on regular basis to the Ministry of Trade and Economic Relations on the supervision executed. The Ministry of Foreign Trade and Economic Relations keeps the register of the licences issued to the legal entities and natural persons dealing with the import/export and transit of arms and military equipment, in addition to keeping the central register of long-term production partnership contracts. Through inspection supervision, the Ministry of Foreign Trade and Economic Relations keeps the central register on spending of "B" means (gunpowder) by the legal entities authorised for production of arms and military equipment. A full supervision over the Law on Import and Export of Military Equipment implementation is expected to take place through introduction of the US TARCKER system, to enable a full centralised follow-up of data on arms in the process of import, export and transit. All data on import, export and transit of arms and military equipment are kept with the enterprises included in such activities.

Legislation on supplies, storing and carrying of side arms and fire arms and ammunition, i.e. Law on Arms and Ammunition, include provisions on record keeping of issued fire arms lists, i.e. permissions for arms and ammunition, in addition to regulating the trading of arms and ammunition and process of seizure of illegal arms

and ammunition. In accordance with this legislation, Entity and BD Ministries of Interior are the responsible institutions for monitoring and record keeping. There is a need for harmonisation of this legislation with the state level laws, particularly in the area of import/export and transit of products listed in the Law on Import and Export of Arms and Military Equipment. Central/state register on arms and ammunition possession by legal entities and natural persons (arms and ammunition permissions,) does not exist.

3. State-level management of warehouses and security procedures

1. Appropriate features for warehouses locations

- The legal basis and regulations at state level, which prescribe requirements for future locations of warehouses are underway and will be adjusted to the defence sector reform and reduced number of locations.
- Legal bass and regulations on warehouses security issues are also in the process of development and will also be harmonised with the defence sector reforms.
- The valid security measures are defined at the Entity level, but are compiled and monitored by international forces, in compliance with the SFOR Commander's guidelines.
- Domestic experts, along with the SFOR believe that warehouses do not meet NATO standards, and that certain adjustments need to take place for bringing them to required state, which necessitates resources.
- Activity completed in cooperation with OHR, OSCE, UNDP, SFOR and Entity Ministries of Defence in BH, along with the Entity armies produced the strategy of centralisation of warehouse locations and facilities.

2. Measures of physical securing
- There are no alarm systems in the warehouses, but are planned to be installed, in cooperation with the NAMSA.
- All systems, except alarms, are in use in BH for protection and securing of facilities, and they are provided for already in the phase of contracting and tendering for final instillation.
- Arms and ammunition are determined to be kept separately is regularly separated during storing.
- Antiaircraft defence (movable) pieces are kept separately (firing and launching devices are kept separately).
- In warehouse faculties there are no systems for detection of braking
- Procedures for determined deficits in warehouses are not in place, but they are defined in Entity military regulations.
- Currently, there are no additional security measures in warehouses, except those mentioned in this report.

3. Control measures approach
- Only a limited number of authorised persons have the access to arms and ammunition warehouses.
- Access, i.e. denial of access into warehouses is defined by military security measures.
- All employees, military or civil, permanently employed or contracted, are subject to constant detailed security checks.
- Keys of warehouses, for both arms and ammunition can be used only by authorised persons, with written permission and authorisation from their superior military officer.
- The authorised personnel are allowed to keep keys of both arms and ammunition warehouses.

4. Inventory of management and reporting control procedures
- Checks are carried out regularly and orderly in accordance with the SFOR Guidelines.
- Pursuant to SFOR Commander's guidelines.
- Reporting procedures are defined under the Entity security regulations.

- Inspections are carried out under Entity military regulations.
- Warehouse check procedures are specified in Entity armies' procedures.

5. Emergency protection measures
- Plans of supply of needed arms and ammunition are developed according to guidelines in Entity legislation.
- Warehouses keep sufficient quantities of military material needed for the existing military power.
- Warehouses are hedged by high fence and barbed wire.

6. Sanctions for theft and loss
- The procedure for case of theft or missing arms and ammunition is regulated by Entity Criminal Codes. Investigations involve both military and civil bodies.
- There are no martial courts. Civil courts are fully in charge for court proceedings for any kind of criminal offence, including the mentioned one.
- The criminal proceeding is task for authorise Entity institutions, in accordance with Entity Laws, and if it is about violation of state legislation, the proceeding is run by the Court of BH.
- Disciplinary measures are prescribed by Entity legislation. The disciplinary proceeding is run by the Entity Ministries of Defence disciplinary committees, formed based on the Decision of Entity Ministers of Defence, where a violation of official duty and the degree (benign or serious) is determined, on the basis of which a verdict is reached.

7. Procedures to maximum security and transport
- Securing of transport routes (air, land or maritime) is harmonised with the existing military and civil regulations.
- Routes and details for transport of delivery are planned in advance.
- Escort is planned for each delivery.
- Civilians are informed in advance over media in case of major transport.
- Arms and ammunition are always transported separately.
- Except in case of MANPAD (transferable antiaircraft defence pieces), no separate storing of arms components are provided for.
- Depending on the assessment and situation, different security measures are applied.

8. Security training for warehouse staff
- Overall staff (administration, and operative) in warehouses are trained in security procedures, as a part of their regular activities.
- Training for emergency situations is done periodically, in accordance with the existing military guidelines.

9. Marking of plastic explosives
- Marking of plastic explosives is done in accordance with the Convention on Marking of Plastic Explosives (Montreal, March 1, 1991)
- Marking of plastic explosives, aimed at detection of benefits of factories PS "Vitezit" from Vitez, using the Ethylene glycol dinitrate (EGDN) as the detection agent.

Sarajevo, 14 September 2004

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Security Council

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Letter dated 28 October 2004 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my predecessor's letter of 21 November 2003 (S/2003/1128). The Counter-Terrorism Committee has received the attached fourth report from Lebanon submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex). I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Andrey I. Denisov
Chairman
Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

04-59393 (E) 241104 011204

Annex

Note verbale dated 14 October 2004 from the Permanent Mission of Lebanon to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

[Original: Arabic]

The Permanent Mission of Lebanon to the United Nations presents its compliments to the Counter-Terrorism Committee and, with reference to letter No. S/AC.40/2003/MS/OC.349 of the Committee, dated 12 November 2003, has the honour to submit herewith, pursuant to paragraph 6 of resolution 1373 (2001), the fourth report of Lebanon on counter-terrorism.

The Permanent Mission of Lebanon to the United Nations takes this opportunity to renew to the Counter-Terrorism Committee the assurances of its highest consideration.

Enclosure*

[Original: Arabic]

The Lebanese Republic
Ministry of Foreign Affairs and Emigrants

Effectiveness in the protection of the financial system

Question No. 1.1

Effective implementation of subparagraph 1 (a) of the resolution requires States to have in place efficient executive machinery for preventing and suppressing the financing of terrorist acts. In this context, the CTC would appreciate learning whether the Special Investigation Commission has sufficient resources (human, financial and technical) to carry out its mandate. Please provide appropriate data in support of your response. The CTC would be pleased to receive a description of the structure, staffing and powers of the Commission.

Response

For 2003, the budget of the Special Investigation Commission of the Banque du Liban amounted to 2,889,700,000 Lebanese pounds, equivalent to approximately US$ 1.9 million. For 2004, that same budget amounted to 3,252,800,000 Lebanese pounds, equivalent to approximately US$ 2.1 million.

The Commission has a staff of 35 employees, mainly specialists with first-class university degrees who have the expertise required to audit bank accounts and monitor the procedures applied by banks, financial institutions, bureaux de change and gold businesses, inter alia, in order to combat money-laundering operations and the financing of terrorism.

The Commission also has at its disposal modern technologies for communicating directly with all concerned domestic bodies and departments (customs, police, the judiciary ...) and all foreign financial intelligence units with a view to exchanging information on suspicious transactions.

As for its structure and powers, under article 6 of the Combating of Money-laundering Act No. 318/2000, an independent commission known as the Special Investigation Commission has been established at the Banque du Liban. It has a judicial character and a juridical personality and pursues its activities without being subject to the authority of the latter. Its function is to investigate money-laundering operations and monitor compliance with the rules and procedures provided for in the above Act.

The Special Investigation Commission is composed of:

- The Governor of the Banque du Liban as member and, if he is unable to attend, such member of the Commission as he may delegate;
- The chairman of the Banking Control Commission as member and, if he is unable to attend, such member of the Commission as he may delegate;

* Annexes are on file with the Secretariat and are available for consultation.

– The judge appointed to the Higher Banking Commission as member and, if he is unable to attend, an alternate judge appointed by the Supreme Judicial Council for a term equivalent to that of the full member;

– A full member and an alternate member appointed by the Council of Ministers at the proposal of the Governor of the Banque du Liban.

The function of the Special Investigation Commission is to investigate operations suspected of constituting money-laundering offences and determine the seriousness of the evidence for the commission of any such offence.

The Commission has the exclusive right to determine that banking secrecy should be lifted for the benefit of the competent judicial authorities and the Higher Banking Commission, in the person of its chairman, in cases where it is suspected that accounts opened at banks or financial institutions are being used for the purpose of money-laundering.

The Commission meets at the invitation of its chairman at least twice a month and as necessary. Its meetings are legal only if attended by a minimum of three members.

The Commission adopts its decisions by a majority of those present and, if votes are equal, the chairman has the casting vote.

The Commission appointed a full-time secretary, who implements its decisions and directly supervises the secretariat staff, consisting of 35 employees divided among four units, as follows:

– **The Audit and Investigation Unit:** Its tasks include those of gathering evidence on operations that may constitute money-laundering offences, checking information received by the Commission and reporting investigation findings to the Commission through its secretary;

– **The Financial Investigation Administrative Unit:** Its tasks include those of receiving and gathering information from various sources on suspected money-laundering operations, entering and archiving such information using approved programmes, analysing and comparing it with information already available and exchanging information with all concerned bodies and departments, both domestic and foreign;

– **The Compliance Unit:** Its tasks include the ongoing periodic investigation and auditing of banks, financial institutions and all concerned establishments, as mandated by the Commission, to ensure that, within their respective spheres of competence, they perform the obligations stipulated in the Combating of Money-laundering Act and such implementing regulations as may be issued in that connection by the Banque du Liban or the Commission;

– **The Information Technology and Security Unit:** Its tasks include those of installing and updating computer programmes, securing and maintaining computer equipment and preparing, maintaining and developing programmes for the work of the Units, the databank and security and monitoring equipment.

Question No. 1.2

Effective implementation of subparagraphs 1 (a) and (d) requires States to have in place legal provisions to prevent informal money/value transfer systems from being used for the purpose of the financing of terrorism. The CTC notes from page 5 of the supplementary report that Lebanon has no such provisions. In this regard, could Lebanon indicate the steps it intends to take in order to comply fully with this aspect of the resolution?

Response

Reference has already been made to this subject; we stated that informal money/value transfer systems in Lebanon, such as *hawalah*, for instance, are non-existent and that money transfer operations are governed by the laws and regulations in force in Lebanon. Such operations may be effected only through banks and financial institutions having obtained prior authorization from the Banque du Liban, which has the discretionary power to grant or deny such authorization depending on whether it deems it to be in the public interest.

The Regulations on the Monitoring of Financial and Banking Transactions to Combat Money-laundering, issued by the Banque du Liban pursuant to Decision No. 7818 of 18 May 2001, as amended, contain provisions pursuant to which banks and concerned financial institutions are required to verify the identity of the beneficiary of incoming or outgoing transfers. These institutions are under obligation to report any suspicious transfers without delay to the Special Investigation Commission, which, after auditing the bank accounts to or from which the transfers are made, may decide, as appropriate, to lift banking secrecy from the accounts in question, place an immediate freeze on the account balances and notify both local and foreign authorities accordingly.

Question No. 1.3

With regard to the effective implementation of subparagraph 1 (d) of the resolution, the CTC would be grateful to know whether Lebanon has taken judicial action against non-profit organizations for suspected involvement in the financing of terrorism? If yes, could Lebanon outline the relevant procedures and provide information concerning the outcome of such action? The CTC would also welcome examples of cases in which sanctions were imposed against those organizations. Are there procedures in place to respond to requests from other Governments to investigate particular organizations which are suspected of being linked to terrorism?

Response

(a) In 2003, at the request of national or foreign judicial authorities or of foreign police, the Office of the Public Prosecutor at the Court of Cassation instructed the security agencies which perform judicial enforcement functions to investigate a number of cases involving funds suspected of being linked to non-profit organizations (such as religious, charitable or cultural organizations) serving as a cover for the financing of terrorist acts and activities. The aim was to reveal the soundness and accuracy of those suspicions and learn whether the organizations were straying from their original stated objectives into terrorist acts and activities.

The requesting authorities have been informed of the negative outcome of the investigations.

Moreover, through the Counter-Terrorism Office and at the request of the offices of the International Criminal Police Organization (Interpol), the competent local agencies gathered information on whether certain religious, social and political associations are engaged in activities on Lebanese territory that are suspected of being used as a cover for unlawful acts. The information, which turned out to be negative, was forwarded to the requesting Interpol offices.

(b) The judicial authorities in Lebanon have brought no legal prosecutions against non-profit associations or organizations suspected of financing terrorist activities, as the investigations carried out ultimately failed to confirm the accuracy of such suspicions about any of these associations or organizations. An example which can be cited, however, is the prosecution of persons for the offence of complicity in terrorist activities in that they financed the group which, in 2003, bombed restaurants in Lebanon with United States names; elements of the group were arrested and tried by the competent military court, which sentenced two Lebanese persons holding Australian passports to 15 years' imprisonment, it having been proved to the court that they had aided and abetted in the commission of those terrorist acts.

(c) For its part, the Banque du Liban informed us that it had received no reports of any suspicious non-profit organizations and had therefore taken no action against any such organization.

(d) As for procedures in place to respond to requests from foreign Governments, the procedures stipulated in the Combating of Money-laundering Act and in the regulations issued by the Banque du Liban and the Special Investigation Commission are applied.

Question No. 1.4

Effective implementation of subparagraph 1 (a) of the resolution requires financial institutions and other intermediaries to identify their clients and report suspicious financial transactions to the relevant authorities. With reference to pages 4 and 5 of the third report of Lebanon, it is not clear whether its legal provisions require the reporting of suspicious transactions to all professionals engaged in financial transactions (such as lawyers and/or accountants)? The CTC would appreciate an outlining of the steps Lebanon intends to take in order to comply fully with this aspect of the resolution. In this regard, would Lebanon please provide the CTC with the number of suspicious transactions reports (STRs) received by the Special Investigation Commission and/or other competent authorities, with particular regard to STRs from bureaux de change, money remittance/transfer services and jewellery businesses. Please also indicate the number of STRs analysed and disseminated as well as the number of these which have led to investigations, prosecutions or convictions.

Response

Pursuant to article 7 of the Combating of Money-laundering Act No. 318 of 20 April 2001, all institutions, whether or not subject to banking secrecy, are required to report immediately to the Special Investigation Commission the details

of any transactions suspected of concealing money-laundering, including transactions relating to terrorist activities or the financing of terrorism.

Article 4 of the Act lists some of the many examples of institutions which are not subject to banking secrecy and which are required to report suspicious transactions. Although this article makes no direct reference to lawyers and accountants, they are under the same reporting obligation as those who fall within the scope of the laws and regulations governing their respective areas of work.

Under article 5 (f) of Act No. 318/2000 and article 13 (2) of the Regulations on the Monitoring of Financial and Banking Transactions to Combat Money-laundering, the financial monitoring officer at the bank or financial institution is required to report immediately to the Governor of the Banque du Liban, in his capacity as chairman of the Special Investigation Commission, any violation of the provisions of the Act or the Regulations.

Thus far, the Special Investigation Commission has received nine reports from bureaux de change, one report from the gold business sector and, excluding banks and financial institutions, no reports from remittance institutions (Western Union). All these reports, however, are unrelated to transactions suspected of being linked to terrorism or the financing of terrorism; they related solely to forged or bounced cheques and led to no prosecutions and consequently to no judicial rulings.

Question No. 1.5

In the context of the effective implementation of paragraph 1 of the resolution, has Lebanon adopted measures to prevent terrorists and other criminals from having unfettered access to wire transfers for moving their funds, with regard to:

- monitoring of the compliance of financial institutions with rules and regulations governing wire transfers (cross-border and domestic);
- detecting such misuse when it occurs, in particular by ensuring that basic information on the originator of wire transfers is immediately available to relevant authorities?

Response

Pursuant to article 10 et seq. of the Regulations on the Monitoring of Financial and Banking Transactions to Combat Money-laundering, issued by the Banque du Liban by Decision No. 7818 of 18 May 2001, as amended, all banks and financial institutions operating in Lebanon are required to establish specialized administrative committees and units to monitor financial and banking operations in order to combat money-laundering, including operations involving proceeds derived from or aimed at financing terrorism. Some of their many tasks are identified and, within their respective areas of competence, these committees and units, as well as all concerned officers at the bank or financial institution, are required to follow the procedures set forth for monitoring and combating money-laundering operations in order to pre-empt their occurrence.

Banks and financial institutions therefore each have a specialized committee which is entrusted with a number of tasks, including the review of reports referred to it by the Verification Unit and the Internal Auditing Unit concerning suspicious

transactions and high-risk accounts in regard to deposits, cash withdrawals and transfers and their linkage with economic activities.

The tasks of the Verification Unit include the review of the daily and weekly cash transaction and transfer reports received from the directorates and branches concerned, as well as the combined monitoring of client accounts and transactions.

The Internal Auditing Unit performs the tasks of auditing cash transactions, transfers and account movements and periodically reporting any changes to the approved monitoring officer.

The tasks of the officer in charge of monitoring branch accounts include the monitoring of cash transactions and transfers and the reporting of any suspicious transactions to the Verification Unit.

As for the officer in charge of the Transfers Division, his tasks include those of auditing incoming transfers to customer accounts, particularly electronic transfers which do not include the name of the person ordering the transfer and which are over a certain amount and unusual in character, and reporting to the Verification Unit any transfers thought to involve suspicious transactions.

Specific tasks are also assigned to cashiers, officers in charge of the Cheques Division and branch managers.

A special unit, known as the Compliance Unit, was also established as part of the Special Investigation Commission. Its tasks are, inter alia, to ascertain and check on an ongoing periodic basis the performance by banks, financial institutions and all concerned establishments of their respective obligations under the Combating of Money-laundering Act No. 318/2001 and such regulations as may be issued in that regard by the Banque du Liban or directly by the Commission. It also makes recommendations to the Commission, through its secretary, on ways of bringing internal auditing methods to the attention of all sectors, in particular the agricultural, industrial, commercial and service sectors, with a view to combating any potential money-laundering through any one of them.

We also wish to point out that, under the Combating of Money-laundering Act and the Regulations on the Monitoring of Financial and Banking Transactions to Combat Money-laundering, all concerned institutions are required immediately to report to the Special Investigation Commission any suspicious transactions, including transfers thought to conceal suspicious transactions, in particular transfers about which there are doubts concerning the identity of the beneficiary and so on.

Effectiveness of counter-terrorism machinery

Question No. 1.6

Effective implementation of 1373-related legislation covering all aspects of the resolution requires States to have in place effective and coordinated executive machinery, as well as create and utilize adequate national and international anti-terrorist strategies. In this context, does Lebanese counter-terrorist strategy and/or policy targeting, at the national and/or subnational levels, deal with the following forms or aspects of counter-terrorist activity:

- criminal investigation and prosecution;

- counter-terrorist intelligence (human and technical);
- special forces operations;
- physical protection of potential terrorist targets;
- strategic analysis and forecasting of emerging threats;
- analyses of efficiency of anti-terrorist legislation and relevant amendments;
- border and immigration control;
- control preventing the trafficking in drugs, arms, biological and chemical weapons, their precursors and the illicit use of radioactive materials.

Without compromising any sensitive information, could Lebanon please outline its legal provisions, administrative procedures and best practices in this regard?

Response

A. *Criminal investigation and prosecution*

The Lebanese judiciary and its assistant security agencies are constantly on the alert to uncover and pre-empt any terrorist activity by arresting the would-be perpetrators and taking the appropriate measures stipulated in Lebanese laws against those who perpetrate, aid, abet or act as accomplices in such activity, as in the case of the action taken against the defendants in the attack on the network of United States restaurants.

B *Counter-terrorist intelligence (human and technical)*

The human and technical resources in all security agencies are on permanent alert to monitor and track any terrorist activity.

C. *Special forces operations*

All security agencies have special counter-terrorism forces which, in most areas of Lebanon, have carried out raids and arrested terrorist elements and entities who were handed over to the competent judicial authority.

D. *Physical protection*

By a decision of the Central Security Council, which is headed by the Minister of the Interior and Municipalities, security was stepped up in order to protect all places that are a potential target for attack, such as Government offices, vital centres and foreign embassies, agencies and establishments.

E. *Strategic analysis and forecasting of emerging threats*

The security agencies have experts at their disposal who analyse security information, prepare assessment reports and propose measures to prevent terrorist plans from being carried out.

F. *Analyses of efficiency of anti-terrorist legislation and relevant amendments*

The Lebanese Penal Code comprises articles identifying precisely the criminal acts which are included within the meaning of terrorism. These acts are punishable with stringent penalties that are commensurate with the gravity of the act, the role of those involved and the ensuing consequences. Such penalties range from temporary hard labour to the death sentence.

Currently under consideration is a draft amendment to these articles that will widen the scope of such acts and provide for harsher penalties in accordance with the evolution of the new global concept of terrorism and the directives of the United Nations pursuant to resolution 1371 (2001).

G. *Border and immigration control*

In addition to the internal laws governing the entry and exit process in Lebanon, the Lebanese State has concluded several international agreements to limit illegal immigration, including but not limited to:

- An agreement between Lebanon and Romania on illegal immigration and the readmission of illegal residents;
- An agreement between Lebanon and Bulgaria on the readmission of illegal residents;
- An agreement between Lebanon and the People's Republic of China on traffic in persons and illegal immigration.

The Directorate-General for Public Security is responsible for strengthening border monitoring and control, prosecuting persons who violate Lebanon's rules on entry and residence, pursuing networks involved in the traffic of persons, arresting the members of such networks and bringing them before the competent authorities.

H. *Control preventing traffic in drugs, arms, biological and chemical weapons, their precursors and the illicit use of radioactive materials*

Article 3.I, paragraphs 3 and 4, of the Arab Convention for the Suppression of Terrorism, signed in Cairo on 22 April 1998, which the Lebanese Government was authorized to conclude pursuant to Act No. 75 of 31 March 1999, provides that the Contracting States shall endeavour:

> "To develop and strengthen systems for the detection of the movement, importation, exportation, stockpiling and use of weapons, munitions and explosives and of other means of aggression, murder and destruction as well as procedures for monitoring their passage through customs and across borders in order to prevent their transfer from one Contracting State to another or to third-party States other than for lawful purposes;
>
> "To develop and strengthen systems concerned with surveillance procedures and the securing of borders and points of entry overland and by air in order to prevent illicit entry thereby".

Item IV, section I (Implementing programmes), paragraphs 21 and 22, of the plan for the third implementation phase of the Arab counter-terrorism strategy, which runs for a three-year period, beginning on 16 January 2004 and ending on 15 January 2007, also urges the member States of the Council of Arab Ministers of

the Interior to form response teams to cope with the potential disruption to medical centres, hospitals and security agencies caused by the use of biological and chemical weapons by terrorist entities and with the injuries and psychological repercussions produced by these dangerous weapons. It further urges those States to train security personnel and devote more attention to the monitoring and prevention of biological and chemical terrorism.

Articles 56 to 75 of the Narcotics, Psychotropic Substances and Precursors Act No. 673 of 16 March 1998 contain special provisions on importation, exportation and transit in connection with the international trade in the plants, substances and preparations included under the Act, as well as provisions applicable to commercial carriage operations and postal shipments.

Question No. 1.7

The CTC would be grateful if Lebanon could provide it with information regarding its counter-terrorist efforts including, for example, an outline of any targeted programmes, the agencies involved and any mechanism aimed at ensuring inter-agency coordination in the various areas specified in paragraphs 2 and 3 of the resolution. The CTC is particularly interested in the following areas:

- the recruitment to terrorist groups;
- the tracing of links between criminal activity (in particular, drug trafficking) and terrorism;
- the denial of safe havens to terrorists and of any other forms of passive or active support for terrorists or terrorist groups, including, inter alia, logistical support.

Response

A. *Recruitment to terrorist groups*

The intelligence networks to which the security agencies have access are engaged in tracing, pursuing and monitoring all terrorist elements. As a result, terrorists have been arrested and handed over to the competent judicial authority, and terrorist cells have been destroyed and prevented from recruiting new elements.

B. *Links between criminal activity (in particular drug trafficking) and terrorism*

The Lebanese security agencies set about destroying all prohibited crops and raiding drug-manufacturing centres. Through such raids, they were able to arrest several members of networks involved in the smuggling and manufacture of drugs. The investigations conducted, however, showed no link between drug-smuggling networks and terrorist organizations.

C. *Denial of safe havens to terrorists and of any other forms of support, including logistical support*

The intelligence surveillance of all territory by the security agencies led to raids on sites and places providing shelter to terrorists and the arrest of elements from terrorist groups, who were handed over to the competent judicial authority.

The Palestinian camps, however, offer a potential refuge for extremist elements, including even those who are under close investigative and intelligence surveillance.

Question No. 1.8

In the context of the effective implementation of subparagraph 2 (e), could Lebanon please inform the CTC as to the number of persons prosecuted for:

- terrorist activities;
- the financing of terrorist activities;
- recruitment to terrorist groups;
- providing or inviting support to terrorists or terrorist organizations.

Response

We are awaiting the reply of the Minister of Justice, which we shall transmit as soon as we receive it.

Question No. 1.9

With regard to effective implementation of subparagraphs 1 (a), 2 (e) and 3 (a) of the resolution, the CTC would be grateful for an outline of Lebanese legal procedures and administrative mechanisms in place to ensure adequate cooperation and information-sharing among the different Government agencies which may be involved in the investigation of terrorist activities, particularly the financing of terrorism. Do the legal provisions in place authorize the administrative authorities to share both public and non-public information concerning counter-terrorism with their domestic and foreign counterparts? If yes, please outline.

Response

Internally, there is a mechanism for cooperation among the various judicial authorities and the competent administrative authorities that is governed by the laws and regulations on security departments and forces. This cooperation takes place among the Directorate-General for Public Security, the Directorate for Internal Security Forces, the Directorate for Lebanese Army Intelligence and the Customs Administration. The Office of the Public Prosecutor at the Court of Cassation has the central power as a judicial enforcer and through its supervision of all offices of the public prosecutor and of the security forces operating under its authority.

The Combating of Money-laundering Act also provides the opportunity for cooperation between the Special Investigation Commission and the Office of the Public Prosecutor at the Court of Cassation in freezing accounts containing proceeds derived from terrorist activities and offences involving drugs and traffic in weapons, after banking secrecy has been lifted; the Office of the Public Prosecutor is notified to conduct the necessary investigations with a view to bringing the offenders to trial and thus seeking the confiscation of proceeds derived from terrorist activities and other offences stipulated in the Combating of Money-laundering Act.

In regard to the financing of terrorism at the internal level, information is exchanged in writing or electronically with the concerned organizations, departments and agencies (security, administrative, judicial and customs). An

electronic system has been set up for communication between the Commission and the relevant security and customs units, through which information is exchanged with the requisite speed. At 31 December 2003, the Commission had received seven local reports on persons linked with terrorism.

Externally, the Lebanese State is a member of Interpol, within the framework and regulations of which it provides other requesting States with such information as it may have on persons suspected of supporting or financing terrorist activities. Under supervision of the Office of the Public Prosecutor at the Court of Cassation, the competent security agencies conduct the investigations required to obtain such information in accordance with the provisions of the Code of Criminal Procedure.

The Lebanese Government is committed to the full implementation of the 10 international conventions and protocols to which it has thus far acceded and which now have the force of law.

The Government is also bound by the Arab Convention for the Suppression of Terrorism, to which it acceded pursuant to Act No. 99/57 and which makes detailed provision for cooperation among the Contracting States in order to prevent and combat terrorist offences through the exchange of information, expertise and evidence, as well as through investigations, judicial assistance and judicial cooperation.

Under supervision of the Office of the Public Prosecutor at the Court of Cassation, the competent security and judicial authorities engage in such cooperation within the context of the provisions of the above-mentioned international conventions and protocols, as well as in accordance with Lebanon's internal laws.

In accordance with Act No. 318/2001, the Special Investigation Commission of the Banque du Liban receives reports from institutions subject to banking secrecy, from institutions not subject to banking secrecy, from various foreign financial intelligence units and from official authorities, both Lebanese and non-Lebanese. These reports are either submitted in writing or electronically, particularly since the Commission is a member of the Egmont Group, comprising 69 foreign financial intelligence units which are electronically linked.

In regard to the written or electronic exchange of information with the competent foreign authorities, at 13 December 2003, the Commission had received 172 reports from foreign sources, including 57 relating to names and persons connected with terrorism.

It is worth mentioning that inquiries were made at banks and financial institutions operating in Lebanon about accounts belonging to the persons concerned and that no such accounts were found to exist, with the exception of one account held by one of those persons and containing approximately US$ 2. Banking secrecy was lifted from the account, which was frozen. The concerned parties were notified accordingly.

The Ministry of Foreign Affairs and Emigrants is responsible for coordination and the exchange of information with all security authorities and competent investigation commissions. It also transmits the required information to the competent foreign bodies in Beirut or to a mission of Lebanon abroad and from there to the competent authorities abroad.

Question No. 1.10

Regarding the implementation of subparagraphs 1 (a) and (d) of the resolution, as well as article 5 of the International Convention for the Suppression of the Financing of Terrorism, could Lebanon please provide the CTC with statistics on the number of cases in which sanctions, whether criminal, civil or administrative, were imposed on entities and/or organizations for supporting terrorists or terrorist organizations? Please outline the procedures used to proscribe foreign terrorist organizations (other than those featuring in lists drawn up by the Security Council of the United Nations), as well as data in regard to the number of such organizations and/or the relevant examples. How long does it take to proscribe a terrorist organization at the request of or based on the information of another State? In this regard, please indicate how many persons have been prosecuted for inviting and/or providing support for:

- **proscribed organizations; and**
- **other terrorist groups or organizations?**

Response

A. *Sanctions imposed on entities and/or organizations for supporting terrorists*

Through the competent security agencies and at the request of foreign authorities or the United Nations, the Office of the Public Prosecutor at the Court of Cassation has carried out investigations on the strength of information received about activities of entities and organizations suspected of supporting terrorist activities. It took no legal action in these cases, however, either because it had no proof that such information was genuine and reliable or because these entities and organizations support terrorist activities as construed under Lebanese law. Consequently, no criminal, administrative or other sanctions have been imposed on any entity or organization.

B. *Procedures used to proscribe foreign terrorist organizations featuring in the list drawn up by the United Nations or otherwise*

Since the formation of illegal and clandestine organizations constitutes an offence punishable under the Lebanese Penal Code, the recruitment of members, the collection of funds or the solicitation of other forms of support for terrorist acts and terrorist activities in and outside Lebanon each constitute an offence. Such acts constitute either incitement to or complicity in the offence of forming an illegal (or clandestine) organization. On that basis, it can be said that the current Lebanese legislative enactments are legislative measures that fulfil the purpose of combating terrorism, particularly in association with international conventions guaranteeing coordination in that regard.

As for practical measures, under the supervision of the competent judicial authority, specifically the Office of the Public Prosecutor at the Court of Cassation, the different types of security agency coordinate with Interpol in mobilizing all of their resources in order to exchange information or data. They also conduct investigations and inquiries concerning persons suspected of engaging in underhand or bogus activities, such as recruitment under the guise of teaching or the collection of funds through organizations which may be a front for terrorist activities. The

security agencies consequently report the findings of such investigations to the competent authorities in the requesting States and take the necessary action in regard to the suspects in the event that there is sufficient evidence and the legal elements required to incriminate them.

The time needed to detect and arrest the elements of a terrorist group at the request of another State cannot, however, be specified, as it depends on the facts and ramifications of each case and the potential difficulties faced by the competent authorities.

C. *Number of persons prosecuted*

As for the number of persons prosecuted for belonging to proscribed groups or other terrorist organizations, we also enclose the list containing the names of persons prosecuted for the offence of belonging to terrorist organizations or of having perpetrated terrorist acts, which was transmitted to Interpol and the United Nations at their request (see appendix 1).

Question No. 1.11

With regard to the effective implementation of subparagraph 3 (g) of the resolution please indicate whether Lebanon applies the "prosecute or extradite" (*aut dedere aut judicare*) principle of international law. In other words, in the event of Lebanon refusing to extradite a person based on the application of a provision of Lebanese law, does Lebanon proceed to prosecute that person for the offence or offences for which that person's extradition was originally sought? Are claims of political motivation grounds for refusing extradition in the case of terrorist acts? The CTC would appreciate receiving a report on the steps which Lebanon has taken or intends to take in order to fully comply with this aspect of the resolution.

Response

I. The provisions of article 23 of the Penal Code, which relate to the principle that Lebanese law is universally applicable, stipulate as follows:

> "Lebanese law shall apply to any foreigner present on Lebanese territory who, as a principal, instigator or accessory, set about the commission of an offence abroad that is not provided for under articles 19, 20 and 21, if his extradition has not been requested or accepted."

On the basis of the provisions of this article and in the event that Lebanon refuses to extradite a person, such person is prosecuted by the Lebanese judiciary for the misdemeanour or felony which is the subject of the request for extradition.

These provisions are consistent with the principle of "prosecute or extradite" set forth in resolution 1373 (2001).

II. Where there is a bilateral or multilateral international legal agreement governing the extradition of persons having perpetrated terrorist offences, the provisions of such agreement are applied.

Where there are no such international agreements, the provisions of the Lebanese Penal Code are applicable. Article 34 of the Code provides that extradition shall be refused if the request for extradition arises out of a political crime or if it appears to be for a political purpose. This provision applies regardless

of the type and nature of the offence which is the subject of the extradition request, without excluding terrorist offences.

Question 1.12

The CTC notes from page 9 of the third report of Lebanon that Lebanon is currently considering amending the Penal Code of 1943 and will take into account all matters relating to the combating of terrorism. The CTC would be pleased to be infcrmed of the outcomes of this process. Could Lebanon please provide the CTC with progress report on:

- the implementation in domestic law of the international instruments relating to terrorism which Lebanon has ratified with particular regard to the penalties prescribed for offences created as required under the conventions and protocols;
- the ratification by Lebanon of the remaining conventions or protocols among the 12 international Conventions and Protocols relating to terrorism referred to in the resolution to which Lebanon has yet to become a party.

Response

(a) At the current time, a committee composed of assistant magistrates and senior judges is drafting amendments to the Lebanese Penal Code. The committee includes the Public Prosecutor at the Court of Cassation. This draft will notably incorporate legal provisions on penalties for the offences stipulated in the international conventions and protocols to which Lebanon has acceded and which have been duly ratified by the Chamber of Deputies, the aim being to ensure consistency with the provisions of those conventions.

(b) As for ratification of the international conventions and protocols on terrorism which Lebanon has not yet ratified, this is a matter for the legislature.

Question No. 1.13

Could Lebanon please provide the CTC with the progress report of adoption and promulgation by the Chamber of Deputies of the draft Law No. 318 of 20 April 2001, as well as of the amendment of Article 315 of the Lebanese Penal Code? Please also outline the relevant provisions of those which criminalize financing of terrorism.

Response

In view of the growing concern over money-laundering, the Group of 7 meeting, held in Paris in 1989, decided to establish the Financial Action Task Force on Money Laundering (FATF). In April 1990, FATF published a report comprising 40 Recommendations constituting a full plan of action to combat money-laundering. In February 2000, on the basis of those Recommendations, FATF published a report specifying 25 criteria for identifying the rules and practices which obstruct international cooperation to combat money-laundering. On the basis of those criteria, FATF analysed the anti-money-laundering systems in a number of countries. In June 2000, 15 States, *including Lebanon*, were told that they had been added to the list of non-cooperative countries in the fight against money-laundering. In FATF's view, Lebanon's stringent banking secrecy regime impedes access to the

information needed by the administrative authorities and the bodies charged with the conduct of investigations. Lebanon's cooperation at the international level was deemed by FATF to be unsatisfactory.

In the face of this situation and with the aim of preserving its reputation as a regional financial centre, Lebanon promulgated the Combating of Money-laundering Act No. 318 of 20 April 2004 (leaving the Banking Secrecy Act intact).

In accordance with that Act, the Banque du Liban also issued Decision No. 7818 of 18 May 2001 regulating the monitoring of financial and banking transactions to combat money-laundering.

Article 1 of Act No. 318 defines what is meant by illicit proceeds from the commission of certain offences and what is considered to be money-laundering, including money derived from the terrorism offences stipulated in articles 314, 315 and 316 of the Lebanese Penal Code.

Pursuant to Act No. 547 of 30 October 2003, article 1 of Act No. 318/2001 was amended by the addition of a provision relating to the financing or contribution to the financing of terrorism or terrorist acts or organizations in accordance with the meaning of terrorism stipulated in the Lebanese Penal Code.

Act No. 318/2001 imposes penalties of up to seven years' imprisonment and pecuniary fines on any person who undertakes, aids or abets money-laundering operations. An independent commission named the Special Investigation Commission, which has a judicial character and a juridical personality, was established at the Banque du Liban. Its activities are not subject to the authority of the latter and its function is to investigate operations suspected of constituting money-laundering offences, determine the seriousness of the evidence for any such offence and monitor compliance with the rules and procedures stipulated in the Combating of Money-laundering Act. The Commission has the exclusive authority to lift banking secrecy from any suspicious account or accounts, including credit accounts opened at banks or financial institutions, for the benefit of the competent judicial authorities. It is also the Commission which decides that accounts should be temporarily or permanently frozen and its decisions are not subject to any means of ordinary, extraordinary, administrative or judicial review, including a review for transgression of authority.

It should be noted that the Combating of Money-laundering Act stipulates a penalty of up to one year's imprisonment and a pecuniary fine for all institutions, whether or not subject to banking secrecy, which fail to perform their obligations to check the identity and addresses of their clients and ascertain their fulfilment of the obligations incumbent on them under the Act. It also stipulates that movable and immovable assets shall be forfeited to the State where it is demonstrated by a final judgement that they are connected with money-laundering offences. Under the Act, the Commission is also permitted to exchange information with the concerned domestic and foreign authorities.

It should be mentioned that the Combating of Money-laundering Act protects the chairman, members, employees and delegates of the Commission by granting them immunity within the scope of their work insofar as none of them can be sued or prosecuted for any civil or criminal liability in connection with the performance of his or her duties, including offences provided for under the Banking Secrecy Act. It also protects banks and their employees by granting them immunity when

performing the duties incumbent on them under that Act or in accordance with the decisions of the Commission.

As a result of the efforts of the various concerned Lebanese organizations and departments, in June 2002, FATF *removed Lebanon from the list of non-cooperative countries in the fight against money-laundering*. During October 2003, FATF set about ending the monitoring period for Lebanon in that regard.

In regard to the amendment of article 315 of the Lebanese Penal Code, it was substituted pursuant to Act No. 553 of 20 October 2003 by the addition of a provision to the Code, namely that of article 316 *bis*, the text of which is as follows:

"Under this Code, illicit assets shall be construed to mean all assets derived from the commission of any of the following offences:

1. The cultivation, manufacture or traffic of drugs;

2. Acts by members of a conspiracy provided for in articles 335 and 336 of the Penal Code and regarded as internationally organized crime;

3. The terrorist offences provided for in articles 314, 315 and 316 of the Penal Code;

4. The financing or contribution to the financing of terrorism, terrorist acts or terrorist organizations in accordance with the meaning of terrorism as provided for in the Lebanese Penal Code;

5. Illicit traffic in weapons;

6. The theft or embezzlement of public or private funds or the seizure of such funds by deception, falsification or abuse of a position of trust in banks and in the financial and other institutions listed in article 4 of this Code or in areas within the scope of their activity;

7. The counterfeiting of currency, credit cards, charge cards, public securities or commercial bonds, including cheques."

Question No. 1.14

The CTC would be grateful to be informed of the legal or other measures which enable the Lebanese authorities to provide assistance in the matter of criminal investigation and judicial proceedings as required under subparagraph 2 (f) of the resolution. Is there a law in Lebanon which provides for mutual assistance in criminal investigations and judicial proceedings? Could Lebanon outline its mutual legal assistance provisions in general and with particular regard to requests for the freezing, seizure and confiscation of property or valuables?

Response

Requests from abroad for investigations through the judicial police or for judicial assistance through the judiciary are acted upon either in accordance with the provisions of the relevant judicial agreement, where one exists, or in accordance with the principle of reciprocity and international cooperation in the event that there is no judicial agreement governing the matter. Such action is subject to the legal rules governing the procedure. Requests for the seizure and confiscation of movable or immovable property or assets are subject to the provisions of the international

judicial agreement, where one exists, failing which they are subject to the provisions of international law.

Question No. 1.15

The CTC notes from the reply to questions No 1.7 and 1.9 (at pages 7 and 8 of the third report) that Lebanon has no legal provisions in place to enable prosecution of a foreign national who is in Lebanon and has committed a terrorist act outside Lebanon against a State other than Lebanon or against that State's citizens. In this regard could Lebanon indicate the steps it intends taking in order fully to comply with those aspects of the resolution?

Response

Under the provisions of article 23 of the Penal Code, the Lebanese judiciary may prosecute a foreigner on Lebanese territory who set about committing a terrorist act abroad against a foreign State or its citizens, provided that the act in question constitutes a "terrorist" act in accordance with the definition previously specified in Lebanon's first report, which was transmitted to the United Nations on 13 December 2001.

Effectiveness of customs, immigration and border control

Question No. 1.16

Implementation of paragraphs 1 and 2 of the resolution requires the operation of effective customs and border controls with a view to preventing and suppressing the financing of terrorist activities. Does Lebanon impose controls on the cross-border movement of cash, negotiable instruments and/or precious stones and metals by imposing, for example, an obligation to declare assets or to obtain prior authorization before any movement of these takes place? Please provide information concerning relevant monetary or financial thresholds. Could Lebanon provide the CTC with a common legal framework for preventing gold, diamonds and other high value items from being utilized by terrorists?

Response

The response will be provided in the report to be submitted by Lebanon before October 2004 in accordance with Security Council resolution 1540 (2004) on preventing access to weapons of mass destruction by non-State actors.

Question No. 1.17

As stated in Lebanon's third report (at page 8), Lebanese law does not specifically prohibit commerce in official travel documents or identification documents. Are there plans to introduce adequate prohibitions? With regard to Lebanon's reference in page 8 of its third report to "precise and stringent measures" which "the Directorate-General for Public Security of the Lebanese Ministry of the Interior has adopted to verify the forgery or sale of any documentation, in particular identity papers and travel documents", please outline Lebanese legal and administrative provisions regarding the issuance and use of national passports, particularly those which prevent:

- counterfeiting or alteration of a genuine passport by criminal and other elements who need a passport to establish a new identity or citizenship,
- obtaining a passport by deception, using falsified, stolen or genuine documents not one's own (identity theft),
- the theft and completion of a genuine blank passport document, and
- malfeasance of passport authority employees in the issuance of passports.

Response

A. *Commerce in official travel documents and identity papers, in particular the counterfeiting or alteration of a genuine passport by criminal and other elements who need a passport to establish a new identity or citizenship*

Article 453 of the Lebanese Penal Code punishes any deliberate distortion of facts or data of which there is documentary proof in the form of a deed or manuscript.

In accordance with the Lebanese Code of Civil Procedure, the concept of a document covers any written document intended to substantiate a right, an undertaking, an event or a status and includes passports inasmuch as they are used as proof of identity, nationality or the right of travel. Consequently, the alteration of any such document is an offence punishable under article 453 of the Penal Code.

In addition to punishing the counterfeiter, article 454 of the same Code provides for punishment of persons who knowingly use the counterfeiter, meaning that a third party who knowingly uses a forged passport is deemed to be an accomplice of the counterfeiter and is punishable by same penalty. It should be pointed out, however, that the Directorate-General for Public Security issued a new type of Lebanese passport in conformity with the standards of the International Civil Aviation Organization (ICAO), according to which the passport photograph and information must be printed electronically on a plastic cover by state-of-the-art machines, thus making it impossible to forge a passport or to affix a photograph which differs from that of the passport holder. No forgeries have yet occurred since the date when this type of passport first came into use.

B. *Obtaining a passport by deception, using falsified, stolen or genuine documents not one's own*

Article 462 of the Penal Code punishes any person who knowingly presents a forged or counterfeit document to a public department in order to obtain a Lebanese passport (affidavit of identity, affidavit of domicile or witness testimony). Where there is doubt as to the authenticity of such documents, the judicial and administrative files are consulted and the person proven to have presented the forged document is arrested and handed over to the competent judicial authority to be prosecuted for the offence of forgery.

C. *The theft and completion of a genuine blank passport document*

It is impossible for blank passports to be stolen; they are produced abroad, after which they are delivered to a special committee appointed to the task of checking and making a record of the number of passports and their serial numbers.

They are then stored at the Banque du Liban in a special safe and the requisite number is removed once a month, or as necessary, by the Directorate-General for Public Security (the Lebanese Passport Office, which is in turn responsible for keeping the passports safely under lock and key where they are inaccessible to anyone other than the competent authority responsible for their due issuance).

D. *Malfeasance of passport authority employees in the issuance of passports*

Under article 461 of the Penal Code, any public servant who is required to keep records and who falsifies such records must be punished. The Directorate-General for Public Security imposes a heavier penalty on employees who are proven to have committed acts prohibited by laws and directives and hands them over to the competent judicial authority for the appropriate criminal measures to be taken against them.

We should also mention that that between 19 and 28 May 2003, the ICAO auditing team audited the safety procedures in place at Beirut International Airport, checked their compliance with the international standards required under annex 17 and submitted a report on its task to ICAO.

Question No. 1.18

Effective implementation of subparagraphs 2 (c) and (g) of the resolution requires the operation of efficient customs, immigration and border controls to prevent the movement of terrorists and the establishment of safe havens. In this regard, please outline the legal and administrative procedures developed by Lebanon to protect port facilities, ships, persons, cargo, cargo transport units, off-shore installations and ship's stores from the risks of terrorist attacks. Have the competent Lebanese authorities put appropriate procedures in place to enable them to review and update Lebanese transport security plans as appropriate? If yes, please outline.

Response

We are still awaiting the reply from the competent authority.

Question 1.19

In the context of the implementation of subparagraphs 2 (b) and (j), has Lebanon implemented the ICAO standards and recommendations as described in annex 17? Could Lebanon inform the CTC when the ICAO safety audit of Lebanon's international airports has been completed?

Response

As already mentioned in the response to question No. 1.17, between 19 and 28 May 2003, the ICAO auditing team carried out a safety audit of the procedures in place at Beirut International Airport, checked their compliance with the international standards required under annex 17 and submitted a report on its task to ICAO. It also made various comments, to which the Directorate-General of Civil Aviation and the senior management of the Safety Department at Beirut International Airport responded in the form of a letter setting out the immediate action taken in respect of some of those comments and the action planned in regard

to the other comments (a copy of letter No. 8813/2 dated 22 December 2003 and of the attached comments is appended hereto — appendix 2).

Effectiveness of controls preventing access to weapons by terrorists

Question No. 1.20

Effective implementation of subparagraph 2 (a) of the resolution requires each Member State to have in place, inter alia, appropriate mechanisms to deny access to weapons to terrorists. Please outline the legal provisions which Lebanon has put in place to prevent terrorists from acquiring, by legal or illegal means, hazardous materials, such as radiological, chemical and biological materials, their waste products, as well as of nuclear, chemical and biological weapons. Has Lebanon established a national reporting or auditing procedure to detect the loss or theft of hazardous materials mentioned above, whether held by government or private bodies?

Response

The terms and conditions for the importation and manufacture of ordinary pharmaceutical preparations (under a scientific name) are subject to the provisions of a series of laws and decisions promulgated by the executive concerning intensive monitoring by the Ministry of Health, the Customs Administration and all security agencies in order to prevent the entry, circulation or manufacture of toxic or illegal chemical and biological substances.

There are no special procedures in place for detecting the theft or concealment of the above-mentioned hazardous materials. The security and customs authorities, however, take such action as is required to ensure that laws and decisions are implemented and that such unlawful acts are prevented.

Under the Weapons and Munitions Act No. 137 of 12 June 1959, as amended, it is prohibited to manufacture, trade in or circulate nuclear weapons. Compliance with the provisions of this Act is monitored by all security and customs authorities.

In addition, article 6 of the Offences against Internal State Security and Terrorism Act of 11 January 1958 provides that: "Any person who, with intent to perpetrate or facilitate the perpetration of any of the felonies mentioned in this Act or any other felony against the State, manufactures, procures or is in possession of explosive or incendiary materials, toxic or inflammable products or parts used in the assembly or manufacture thereof shall be punished with hard labour for life."

Question 1.21

Could Lebanon please outline its mechanism and procedures in place to legally prohibit and/or control the exportation of goods, the transfer of technologies, the provision of technical assistance overseas and activities connected with trade in controlled goods, with a view to preventing terrorists from gaining access to weapons or hazardous materials. The CTC would appreciate it if Lebanon could provide it with statistics on the use of legal provisions to prevent terrorists from gaining access to weapons.

Response

Please refer to the response to question No. 1.16, as the response to this question is the same.

Question No. 1.22

The CTC is aware that Lebanon may have covered some or all of the points in the preceding paragraphs in reports or questionnaires submitted to other organizations involved in monitoring international standards. The CTC would be content to receive a copy of any such report or questionnaire as part of Lebanon's response to these matters, as well as details of any efforts to implement international best practices, codes and standards which are relevant to the implementation of resolution 1373.

Response

A copy of the report transmitted in accordance with Security Council resolution 1455 (2003) to the Security Council Committee established pursuant to paragraph 6 of resolution 1267 (1999) is appended hereto (appendix 3).